



The Karnataka Co-Operative Societies Act, 1959

Act 11 of 1959

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Apex Society, Assisted Society, Director of Co-Operative Audit, Committee, Co-Operative Bank, Co-Operative Society with limited Liability, Co-Operative Year, Co-Operative Society with Unlimited Liability, Credit Agency, Deposit Insurance Corporation, Federal Society, Financing Bank, office Bearer, Primary Society, Registrar, Scheduled Castes and Scheduled Tribes, Secondary Society, State Representative, Tribunal

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THE KARNATAKA CO-OPERATIVE SOCIETIES ACT, 1959.

ARRANGEMENT OF SECTIONS

[Statement Of Objects And Reasons](#)

Sections :

CHAPTER I**PRELIMINARY**

1. [Short title, extent and commencement.](#)
2. [Definitions.](#)

CHAPTER IA**AUTHORITIES AND APPELATE TRIBUNAL.**

- 2A. [Registrar, Additional Registrars, Joint Registrars, Deputy Registrars, State Representatives and Assistant Registrars.](#)
- 2AA. [Director of Co-operative Audit, Additional Director of Co-operative Audit, Joint Directors of Co-operative Audit, Deputy Directors of Co-operative Audit and Assistant Directors of Co-operative Audit.](#)
- 2B. [Omitted.](#)

CHAPTER II**REGISTRATION OF CO-OPERATIVE SOCIETIES.**

3. [Omitted](#)
4. [Societies which may be registered.](#)
5. [Registration with limited or unlimited liability.](#)
6. [Application for registration of co-operative societies.](#)
7. [Registration.](#)
8. [Registration certificate.](#)
9. [Co-operative societies to be bodies corporate.](#)
10. [Change of name of co-operative society.](#)
11. [Change of liability.](#)
12. [Amendment of bye-laws of a co-operative society.](#)
13. [When amendments of bye-laws come into force.](#)
14. [Amalgamation, transfer of assets and liabilities and division of co-operative societies.](#)

- 14A. [Omitted.](#)
- 14B. [Registrar to prepare scheme for amalgamation of co-operative banks in certain areas.](#)
- 14C. [Liability of co-operative bank to the Deposit Insurance Corporation.](#)
- 15. [Cancellation of registration certificates of co-operative societies in certain cases.](#)

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES.

- 16. [Persons who may become members.](#)
- 17. [Disqualification for membership.](#)
- 18. [Nominal or associate members.](#)
- 18A. [Cessation of Membership.](#)
- 19. [Member not to exercise rights till due payment made.](#)
- 20. [Votes of members.](#)
- 21. [Manner of exercising vote.](#)
- 22. [Omitted.](#)
- 23. [Restrictions on transfers of shares or interest.](#)
- 23A. [Refund of value of share.](#)
- 24. [Transfer of interest on death of member.](#)
- 25. [Liability of past member and estate of deceased member.](#)

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES.

- 26. [Final authority in a co-operative society.](#)
- 26A. [Partnership of Co-operative Societies.](#)
- 26B. [Collaboration of Co-operative Societies.](#)
- 27. [Annual General Meeting.](#)
- 28. [Special general meeting.](#)
- 28A. [Management of co-operative societies vest in the committee.](#)
- 28B. [Committee to arrange for election.](#)

- 29. [Nominees of Government on the committee of an assisted co-operative society.](#)
- 29A. [Commencement of term of office.](#)
- 29B. [Resignation of a member.](#)
- 29C. [Disqualification for membership of the committee.](#)
- 29D. [Omitted.](#)
- 29E. [Filling up of casual vacancy in the office of members of the Committee.](#)
- 29F. [Election of President, Chairperson, Vice-President, or Vice-Chairperson, etc.](#)
- 29G. [Appointment of Chief Executive.](#)
- 30. [Supersession of committee.](#)
- 30A. [Omitted.](#)
- 30B. [Powers to give direction in public interest.](#)
- 31. [Appointment of Special Officer.](#)
- 31A. [Delivery of possession of records and properties of the co-operative societies.](#)

CHAPTER V

PREVILEGES OF CO-OPERATIVE SOCIETIES.

- 32. [First charge of co-operative society on certain assets.](#)
- 33. [Charge on land, owned by members or held as tenants by members borrowing loans from certain co-operative societies.](#)
- 34. [Deduction from salary to meet society's claim in certain cases.](#)
- 35. [Charge and set off in respect of shares or interest of members in the capital of a co-operative society.](#)
- 36. [Shares or interest not liable to attachment.](#)
- 37. [Exemption from certain taxes, duties and fees.](#)
- 38. [Exemption from compulsory registration of instruments.](#)
- 39. [Registration of documents executed on behalf of co-operative societies.](#)

CHAPTER VA**ELECTION OF MEMBERS OF THE COMMITTEES OF CO-OPERATIVE SOCIETIES.**

- 39A. [Conduct of elections.](#)
- 39B. [Cost of conducting elections.](#)
- 39C. [Corrupt practices.](#)
- 39D. [Maintenance of secrecy of voting.](#)
- 39E. [Officers etc. at election not to act for candidates or to influence voting.](#)
- 39F. [Prohibition of canvassing in or near polling station.](#)
- 39G. [Penalty for disorderly conduct in or near polling station.](#)
- 39H. [Penalty for misconduct at the polling station.](#)
- 39I. [Breaches of official duty in connection with election.](#)
- 39J. [Removal of ballot papers from polling station to be an offence.](#)
- 39K. [Other offences and penalties.](#)

CHAPTER VI**STATE AID TO CO-OPERATIVE SOCIETIES.**

- 40. [Promotion of co-operative movement.](#)
- 41. [Direct partnership of State Government in co-operative societies.](#)
- 42. [Indirect partnership of State Government in co-operative societies.](#)
- 43. [Principal State Partnership Fund.](#)
- 44. [Subsidiary State Partnership Fund.](#)
- 45. [Approval of State Government for purchase of shares.](#)
- 46. [Liability to be limited in respect of certain shares.](#)
- 47. [Restriction on amount of dividend.](#)
- 48. [Indemnity of apex and central societies.](#)
- 49. [Disposal of share capital and dividend, etc.](#)
- 50. [Disposal of 'Principal State Partnership Fund' and 'Subsidiary State Partnership Fund' on winding up of an apex or a central society.](#)
- 51. [Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.](#)
- 52. [Agreement by State Government and apex societies.](#)

- 53. [Other forms of State aid to co-operative societies.](#)
- 53A. [Nomination of members of committee by State Government in certain cases.](#)
- 54. [Control of society assisted.](#)
- 55. [Provisions of this Chapter to override other laws.](#)

CHAPTER VII

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES.

- 56. [Funds not to be divided.](#)
- 57. [Net profits and their disposal.](#)
- 58. [Investment of funds.](#)
- 59. [Restrictions on borrowings.](#)
- 60. [Restrictions on loans.](#)
- 61. [Restrictions on other transactions with non-members.](#)
- 62. [Provident Fund.](#)

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE.

- 63. [Audit.](#)
- 64. [Inquiry by Registrar.](#)
- 65. [Inspection of books of a co-operative society.](#)
- 65A. [Report of inquiry, inspection and final report to be made available to a credit agency.](#)
- 65B. [Inspection of books of co-operative society by a credit agency.](#)
- 66. [Power to seize books and property.](#)
- 67. [Costs of Inquiry.](#)
- 68. [Order by the Registrar.](#)
- 69. [Surcharge.](#)

CHAPTER IX

SETTLEMENT OF DISPUTES.

- 70. [Disputes which may be referred to Registrar for decision.](#)
- 70A. [Period of limitation.](#)
- 71. [Disposal of disputes.](#)

- 71A. [Powers of financing bank to proceed against members of a co-operative society for the recovery of money due to it from such society.](#)
- 71B. [Powers of credit agency to proceed against members of a co-operative society for the recovery of money due to it from such society.](#)

CHAPTER X

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

- 72. [Winding up of co-operative societies.](#)
- 72A. [Winding up of a co-operative bank if so, required by the Reserve Bank.](#)
- 72B. [Reimbursement to the Deposit Insurance Corporation by the Liquidators.](#)
- 73. [Liquidator.](#)
- 74. [Powers of Liquidator.](#)
- 75. [Cancellation of registration of a co-operative society.](#)

CHAPTER XI

AGRICULTURE AND RURAL DEVELOPMENT BANKS.

- 76. [Definitions.](#)
- 76A. [Application of Chapter to Agriculture and Rural Development Banks.](#)
- 76B. [State and other Agriculture and Rural Development Banks.](#)
- 77. [Appointment of Trustee and his powers and functions.](#)
- 78. [Trustee to be a corporation sole.](#)
- 79. [Issue of debentures.](#)
- 80. [Charge of debenture holders on certain properties.](#)
- 81. [Guarantee by State Government of principal of, and interest on, debentures.](#)
- 82. [Other guarantees by State Government.](#)
- 82A. [Powers of Agriculture and Rural Development Banks to advance loans and to hold lands.](#)
- 82B. [Mode of dealing with applications for loans.](#)
- 82C. [Order granting loan conclusive of certain matters.](#)
- 83. [Priority of mortgage over certain claims.](#)

- 84. [Right of Agriculture and Rural Development Bank or of the State Agriculture and Rural Development Bank to purchase mortgaged property.](#)
- 85. [Mortgages executed in favour of Agriculture and Rural Development Bank to stand vested in State Agriculture and Rural Development Bank.](#)
- 85A. [Registration of mortgage or lease in favour of Agriculture and Rural Development Banks.](#)
- 86. [Power of Agriculture and Rural Development Bank to receive moneys and grant discharges.](#)
- 86A. [Recovery of Loans by development banks.](#)
- 87. [Right of Agriculture and Rural Development Bank to pay prior debts of mortgagor.](#)
- 87A. [Mortgages executed by managers of joint Hindu families.](#)
- 87B. [Restrictions on lease.](#)
- 88. [Distrain—When to be made.](#)
- 89. [Power of sale when to be exercised.](#)
- 89A. [Confirmation of sale.](#)
- 89B. [Disposal of sale-proceeds.](#)
- 89C. [Certificate to purchase, delivery of property and title of purchase.](#)
- 89D. [Recovery of loans on certificate by Registrar.](#)
- 89E. [Deputy Commissioner to make recoveries during a certain period.](#)
- 89F. [Officers of banks not to bid at sales.](#)
- 89G. [Section 40 of Bombay Act 28 of 1947 not to apply to alienation in favour of Agriculture and Rural Development Banks.](#)
- 89H. [Provision for Guarantee Funds to meet certain losses.](#)
- 90. [Powers of Agriculture and Rural Development Bank where mortgaged property is destroyed or security becomes insufficient.](#)
- 91. [Power of Board or of Trustee to distrain and sell property, etc.](#)
- 92. [Title of purchaser not to be questioned on the ground of irregularity, etc.](#)
- 93. [Mortgage not to be questioned on insolvency of mortgagor.](#)
- 94. [Appointment of receiver and his powers.](#)
- 95. [Mortgagor's powers to lease.](#)
- 96. [Delegation of certain powers by Board.](#)

- 97. [Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter.](#)
- 98. [Power to Board of State Agriculture and Rural Development Bank to supervise Agriculture and Rural Development Banks and make regulations.](#)

CHAPTER XII

EXECUTION OF AWARDS DECREES ORDERS AND DECISIONS.

- 99. [Enforcement of charge.](#)
- 100. [Recovery of moneys due to Societies.](#)
- 101. [Execution of orders, etc.](#)
- 101A. [Transfer of property made after issue of certificate void against co-operative society.](#)
- 101B. [Transfer of property which cannot be sold.](#)
- 101C. [Omitted](#)
- 102. [Registrar or person empowered by him to be a civil court for certain purposes.](#)
- 103. [Attachment of property before award or order.](#)
- 104. [Recovery of sums due to Government.](#)
- 104A. [Application of this Chapter to Co-operative Societies in other States.](#)

CHAPTER XIII

APPEALS, REVISION AND REVIEW.

- 105. [Appeals to the Tribunal.](#)
- 105A. [Appeals relating to admission of members to societies.](#)
- 106. [Appeals to other authorities.](#)
- 107. [Revision by Tribunal.](#)
- 108. [Powers of revision of State Government.](#)
- 108A. [No appeal or revision in certain cases.](#)

CHAPTER XIV**OFFENCES AND PENALTIES.**

- 109. [Offences.](#)
- 110. [Offences by Companies.](#)
- 110A. [Power to compound offences.](#)
- 111. [Cognizance of offences.](#)

CHAPTER XV**MISCELLANEOUS**

- 111A. [Omitted.](#)
- 111B. [Preservation of records.](#)
- 112. [Prohibition against the use of the word "Co-operative".](#)
- 113. [Address of a co-operative society.](#)
- 114. [Copy of Act, rules and bye-laws to be open to inspection.](#)
- 115. [Omitted.](#)
- 116. [Orders to be pronounced.](#)
- 117. [Procedure for settlement of disputes and power of the Registrar or any other person to whom a dispute is referred for decision under section 70.](#)
- 118. [Bar of jurisdiction of courts.](#)
- 119. [Application of Limitation Act.](#)
- 120. [Power to exempt societies from conditions of registration.](#)
- 121. [Power to exempt societies.](#)
- 122. [Register of Members.](#)
- 123. [Proof of entries in co-operative societies' books.](#)
- 124. [Service of notice under the Act.](#)
- 125. [Notice necessary in suits.](#)
- 126. [Acts of co-operative societies not to be invalidated by certain defects.](#)
- 126A. [Omitted.](#)
- 127. [Indemnity.](#)
- 127A. [Office bearers, members and employees of co-operative societies to be public servants.](#)

- 128. [Companies Act, 1956 not to apply.](#)
- 128A. [Constitution of a common cadre.](#)
- 128B. [Duties of police officer.](#)
- 129. [Powers to make rules.](#)
- 129A. [Model bye-laws.](#)
- 130. [Rules and orders to be laid before State Legislature.](#)
- 131. [Repeal and savings.](#)
- 132. [Power to remove difficulties.](#)

STATEMENT OF OBJECTS AND REASONS

I

Act of 11 of 1959.—The Report of the Committee of Directors of the All India Rural Credit Survey, appointed by the Reserve Bank of India, was published in December, 1954. At the first conference of State Ministers in charge of Co-operation held at New Delhi in April, 1955, it was agreed that schemes of Co-operative development under the Second Five-Year Plan should be drawn up to give effect to the recommendations contained in the Rural Credit Survey Report. The Report recommended, among other things, increased State partnership in Co-operative Societies and State participation in their management. In order to implement the recommendations of the Rural Credit Survey Report and to facilitate the implementation of the schemes of co-operative development under the Second Five-Year Plan and also to simplify, rationalise and modernise the existing laws relating to Co-operative Societies, the Committee on Co-operative Law was appointed by the Government of India. The Committee observed that the implementation of the recommendations of the Rural Credit Survey Report and of the schemes of co-operative development under the Second Five-Year Plan requires revision of the existing Co-operative Societies Act and the Rules made thereunder in all States. Further, the Re-organisation of States has brought together, areas which are being governed by different Acts and Rules. Under these circumstances the Committee felt, the present juncture was very opportune for revising the Co-operative Societies Act, in force in the different States with a view to bringing about as large a degree of uniformity in the legislation governing Co-operative Societies as possible throughout the country. Taking these factors into consideration, the Committee prepared a Model Co-operative Societies Bill and Model Rules which they recommended to State Governments for enactment and

adoption. At present five different Co-operative Societies Acts are in operation in the different parts of the Mysore State. This is a source of considerable administrative inconvenience. It is necessary to have a uniform Co-operative Societies Law as applicable to the whole of the State.

Government have, therefore, decided to introduce the present Bill. The Bill has been drafted after taking into consideration the Model Co-operative Societies Bill recommended by the Committee on Co-operative Law appointed by the Government of India. The principle of State partnership in Co-operative Societies and State participation in their management has been accepted and incorporated in the relevant provisions of this Bill.

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II

Amending Act 40 of 1964.—The Mysore Co-operative Societies Act, 1959, which was brought into force from First July 1960 has revealed in the course of working the need for some amendments for speedy implementation. It has also become necessary to amend the chapter relating to the Mysore Central Land Mortgage Bank Ltd., so that the Bank could take up expeditiously development activities for which funds could be made available from the provision made under Taccavi loans or from the funds borrowed from the Agricultural Re-finance Corporation of India or from the debentures raised by the Bank itself. Hence the amending Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 18th June 1964 as No. 152 at page 55.)

III

Amending Act 27 of 1966.— **Note.**—By this Act the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966) was enacted. Certain consequential amendments are made therein to this Act .

IV

Amending Act 16 of 1967.— Consequent on the amendment of the Central Sales Tax Act by the Parliament providing for the enhancement of the rates of tax applicable to the declared good under the local sales tax laws, it has become necessary to amend the IX Schedule which specifies the declared goods and the rates of tax applicable to them. The rates of tax applicable tot he declared goods specified therein are now being enhanced accordingly.

The Government was considering the question of granting certain concessions to new industries with a view to encourage development of industries in the State. The Government recently took a decision that in respect of new industries exemption from the payment of Sales Tax should be provided for an initial period of two years. The manner in which that exemption should be provided was examined and it was thought that it can be best done by means of Notifications issued from time to time whenever occasion arises. Since the Act did not contain a provision empowering the State Government to issue such notifications it is now intended to insert a provision empowering the Government to notify exemptions and reduction of tax rates. Such a provision exists in the Sales Tax Laws of the neighbouring States also.

This occasion is also utilised to make certain minor amendments relating to procedural matters and also to provide for concessional rate of tax for vermicelli and to reduce the rates of tax on sugarcane and to exempt Amber Charkas, Druggets, Durries and Carpets. The benefit of exemption granted to bona fide producers under item 28 of the V Schedule is proposed to be limited to persons who produce goods exclusively coming under village industry.

Note: By this Act some consequential amendments are made to Act 11 of 1959

(Obtained from L.A. Bill No.35 of 1967 Page No. 9 & 10)

V

Amending Act 1 of 1972.—According to clause (c) of section 101 of the Mysore Co-operative Societies Act, 1959, an order, decision and award made under the Act can be executed by the Registrar or any other person subordinate to him by attachment and sale of any property of the person or co-operative society against whom the order, decision or award has been obtained or passed. In order to implement this provision necessary rules have been made and rule 41 of the Mysore Co-operative Societies Rules, 1960, empowers the Sale Officer to investigate the claims to property attached in execution. In pursuance of this provision, Sale Officers have been investigating such claims.

In *Jyotiba Yellappa vs. Hubli Co-operative Cotton Sale Society, Ltd.*, [1970 (2) Mys. L.J. 344], the High Court of Mysore held that the procedure under Rule 41 of the Co-operative Societies Rules is limited in its operation to persons who can properly be made parties to the original dispute under section 70 of the Act and that hence a claim by non-members against the attachment and sale in execution of an award cannot be adjudicated under rule 41.

In view of this decision, execution of orders, decisions and awards in which claims to the property attached had been made by non-members would become

invalid and ineffective. Further, execution of orders, decisions and awards could not be proceeded with except in cases where members of the society were interested in the properties liable to attachment and sale. Consequently, the Co-operative Societies could not pursue the expeditious procedure for recovery under the Co-operative Societies Rules.

Hence it became necessary to empower the Registrar and his subordinate to exercise the powers of investigating claims to property attached in the execution of the orders, decisions and awards.

As the Houses of Legislature were not in Session and the matter was urgent, an Ordinance was promulgated amending section 101 of the Act and validating the action already taken. Thereafter before the Ordinance could be replaced by the Act of State Legislature, the State Legislature was suspended by the proclamation of the President dated 27th March 1971 under article 356 of the Constitution. The Bill is intended to replace the Ordinance and is for enactment under the provisions of the Mysore State Legislature (Delegation of Powers) Act, 1971.

The Consultative Committee on State Legislature relating to Mysore at its second meeting on the 7th December 1971, has considered the Mysore Co-operative Societies (Amendment) Bill, 1972, and has accorded its approval of the same.

(Obtained from Presidents Act 1 of 1972.)

VI

Amending Act 14 of 1973.—The post of Director of Sugar has been created to fulfil the need for a single agency to deal with all matters relating to sugar industry in the State in a comprehensive and co-ordinated manner. Since there are a number of sugar factories already in the co-operative sector and more factories are likely to come up in future it was necessary to designate the Director of Sugar as Additional Registrar of Co-operative Societies in respect of all the Sugar Factories in the co-operative sector. At present the Registrar of Co-operative Societies is dealing with all matters relating to Co-operative Sugar Factories and it is felt that the Director of Sugar should assist the Registrar in the discharge of his functions in respect of Co-operative Sugar Factories. The Additional Chief Marketing Officer has been designated as *Ex-Officio* Additional Registrar of Co-operative Societies.

2. Section 2-A of the Mysore Co-operative Societies Act, 1959 provides for the appointment of an Additional Registrar of Co-operative Societies. In order to enable the Additional Chief Marketing Officer and the Director of Sugar to be designated as Additional Registrar of Co-operative Societies and also in order to provide for future contingencies it is considered necessary to amend the provision to enable

Government to appoint as many Additional Registrars of Co-operative Societies as it thinks fit for the purpose of assisting the Registrar.

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VII

Amending Act 2 of 1975.— **Note.-** By this Act the Karnataka Agricultural Credit Operations and Miscellaneous Provision Act, 1975 (Karnataka Act 2 of 1975) was enacted. Certain consequential amendments are made therein to Act 11 of 1959.

VIII

Amending Act 39 of 1975.—In order to facilitate the extension of Deposit Insurance Schemes under the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961) to co-operative banks registered under the Mysore Co-operative Societies Act 1959 the Government of India, Ministry of Food, Agriculture, Community Development and Co-operation and also the Reserve Bank of India have suggested to the State Government to make necessary amendments in the State Act so as to enable the State Government and the Reserve Bank of India to exercise powers of supersession, re-constitution and liquidation of Co-operative Banks. The Committee appointed by the Government with the then Deputy Minister for Co-operation as the Chairman with non-official Presidents of some of the major Co-operative Institutions and officers of the Government to consider the amendments to be made in the State Act in the light of the policies and programmes of the Government, recommended among others, making all the necessary provisions in the Co-operative Societies Act as suggested by the Government of India and the Reserve Bank. A Bill was introduced for this purpose in the Legislative Assembly in March 1970. The Bill was not taken up for consideration by the Assembly, and with the dissolution of the Legislative Assembly, the Bill has lapsed. It was considered necessary by Government to amend the Act to provide for certain urgent and important items noted below:

- (1) Extension of deposit insurance schemes to the Co-operative Banks;
- (2) Amalgamation of Co-operative Banks;
- (3) Creation of second charge on the land of the member of the Society enabling him to draw finance for agricultural operations.
- (4) Nomination of members of committee by State Government in certain cases;
- (5) Winding up of Co-operative Banks.

Accordingly, an amendment Bill was prepared and forwarded to the Government of India with a request to get it enacted as President's Act. The Government of India

suggested certain changes in the Bill. As elections to the State Legislature were to be held the Bill was not enacted as a President's Act.

It is now considered necessary to amend the Mysore State Co-operative Societies Act 1959, so as to facilitate the extension of Deposit Insurance Scheme to Co-operative Banks, to allow for the admission of Commercial Banks as nominal members of the Co-operative Societies, to afford relief to the borrowers from Co-operative Society to get proportionate release of charge on lands where partial discharges of loans are made and where Area Development Works are taken up in compact areas to protect the interest of Government or Land Development Bank financing the scheme, to make suitable provision in the Act for nomination of two-thirds of the total number of Directors on the Board of Directors of any Co-operative Society in which Government hold shares of the value not less than 50 percent of the share capital of Co-operative Society, to make provisions of framing T.A. Rules of the members of the Co-operative Societies, to provide for the Central Banks to initiate the Arbitration Proceedings on some of the members of the Primary Co-operative Societies, to make provision for disqualification of defaulters from membership of committee of Management, to provide for the commencement of term office of the members, resignation of Members of the Committee and for disqualifying a member to be appointed or continued as President, vice-president, etc., of a co-operative society for more than six consecutive years, to provide for the constitution of a bench comprising of two members, by the Chairman, Mysore Co-operative Appellate Tribunal and to make provision enabling Government to constitute an authority/authorities for the recruitment, training, etc., of employees of the Co-operative Societies.

During the President's rule, section 101 of the Mysore Co-operative Societies Act, 1959 was amended by President Act No. 1 of 1972. This was to overcome the difficulty arising out of the decision of the High Court in regard to execution of decree against non-members. As the operation of the President's Act is upto March 1973, and it is necessary to continue the provisions made therein, these provisions have to be re-enacted.

Hence the Bill.

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IX

Amending Act 19 of 1976.—The Karnataka Co-operative Societies Act was amended on 10th March 1976 providing for reorganization of Co-operative Societies with a view to making the Societies more viable and to serve the interest of weaker

sections in particular and to slacken the hold of vested interests over the Societies. But even after the amendment of the Act, it was seen that there were some difficulties in the timely and effective implementation of the provision of the Act. It is also considered necessary to provide for legal steps towards ensuring proper management of the Co-operative Institutions as also for effective action on the erring Co-operative Societies. Accordingly the provisions pertaining to the following matters have been amended suitably by promulgating Ordinance Nos. 15 and 19 of 1976 on 19th July 1976 and 7th August 1976 respectively:

- (1) Reorganization of Co-operative Societies.
- (2) Appointment of Special Officers to Co-operative Societies.
- (3) Power to give direction to Co-operative Societies.
- (4) Appeal provisions under the Act as consequential measure.
- (5) Removal and disqualification of members on the Committee of Management.
- (6) Extending the indemnity provision to the new Management Committee and the Administrators and Special Officers appointed under the Act.

The reorganization of Co-operative Societies was of an urgent nature. The Reserve Bank of India and the Government of India were pressing all State Governments to immediately complete the reorganization of Co-operative Societies so as to enable effective implementation of the 20 Point Economic Programme.

In certain cases immediate action for taking over the management of Co-operative Societies is considered essential. Hence a new Section 30(A) has been included. It is also considered to have legal authority to enable Government to give directions in public interest, to Co-operative Societies. Provision for removal of members of the Committees existed in the rules. It was necessary to make provision under the Act.

The provision regarding the indemnifying the officers who acted in good faith was sought to be extended to the new Committees of Management as also administrators and the Special Officers appointed under the Act is considered necessary.

All the amendments were of urgent nature in the interest of development of Co-operative Movement on right lines and in the absence the Legislative Assembly in Session recourse to promulgation of Ordinance had to be resorted to.

These amendments do not involve additional cost to Government.

This Bill seeks to replace the said Ordinances.

(Published in Karnataka Gazette (Extraordinary) part IV-2A dated 8th November 1976 as No. 4430 at page 7 & 8.

X

Amending Act 70 of 1976.— The Karnataka Co-operative Societies Act was amended on 10th March 1976 providing for reorganization of Co-operative Societies with a view of making the Societies more viable and to serve the interest of weaker sections in particular and to slacken the hold of vested interests over the Societies. But even after the amendment of the Act, it was seen that there were some difficulties in the timely and effective implementation of the provision of the Act. It is also considered necessary to provide for legal steps towards ensuring proper management of the Co-operative Institutions as also for effective action on the erring Co-operative Societies. Accordingly the provisions pertaining to the following matters have been amended suitably by promulgation Ordinance Nos. 15 and 19 of 1976 on 19th July and 7th August respectively.

- (1) Reorganization of Co-operative Societies.
- (2) Appointment of Special Officers to Co-operative Societies.
- (3) Power to give direction to Co-operative Societies.
- (4) Appeal provisions under the Act as consequential measure.
- (5) Removal and disqualification of members on the Committee of Management.
- (6) Extending the indemnity provision to the new Management Committee and the Administrators and Special Officers appointed under the Act.

The reorganization of Co-operative Societies was of an urgent nature. The Reserve Bank of India and the Government of India were pressing all State Governments to immediately complete the reorganization of Co-operative Societies so as to enable effective implementation of the 20 Point Economic Programme.

In certain cases immediate action for taking over the management of Co-operative Societies is considered essential. Hence a new Section 30(A) has been included. It is considered to have legal authority to enable Government to give directions in public interest, to Co-operative Societies. Provision for removal of members of the Committees existed in the rules. It was necessary to make provision under the Act.

The provision regarding the indemnifying the officers who acted in good faith was sought to be extended to the new Committees of Management as also administrators and the Special Officers appointed under the Act is considered necessary.

All the amendments were of urgent nature in the interest of development of Co-operative Movement on right lines and in the absence the Legislative Assembly in Session recourse to promulgation of Ordinance had to be restored to.

These amendments do not involve additional cost to Government.

This Bill seeks to replace the said ordinances.

(Obtained from L.A. Bill No. 45 of 1976)

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 8-12-1976 as No. 4430.)

XI

Amending Act 71 of 1976.—With a view streamline the working of the Co-operatives and to enable them to play an effective role in the implementation of the economic policies and programmes of Government, certain amendments to the Co-operative Societies Act were considered necessary:—

(i) To enable specially the urban banks to allow institutions like firms etc., to be admitted as members;

(ii) To bar persons carrying on the same kind of business as that of a Co-operative Society from being members;

(iii) To deny voting rights to name-sake societies who used to be activated at the time of election and to deny voting rights to surities also as in the case of defaulters since their responsibility were co-existence with the defaulters;

(iv) To enable the State Land Development Banks to float debentures without mortgage of securities in view of their diversified finances even including Dairy Development to put a stop the tendency of the Co-operative Societies holding their meeting at inconvenient places with ulterior motives;

(v) To make the penalties for offences committed under the Act more rigorous.

All these amendments would help to streamline the working of the Co-operative Societies to instil a sense of responsibility amongst the office bearers, the loanees, surities, etc.

Hence the Bill.

(Obtained from LA Bill No. 65 of 1976.)

XII

Amending Act 14 of 1978.—With a view to make the Co-operative Societies effective instruments of assisting the weaker sections and also for handling the financing of agricultural production on an increasing scale, it was considered necessary to reorganize the Co-operative Societies into stronger units. The need for reorganization of these Societies into viable units has gained urgency in view of the necessity for filling up the credit gap as a result of the Debt Relief measure which apart from redeeming the debts of weaker sections has resulted in more or less drying up the traditional sources of available finance.

Writ petitions were filed before the High Court of Karnataka by the Primary Agricultural Credit Co-operative Societies/individuals challenging the validity of the

provisions of section 14A of the Karnataka Co-operative Societies Act, 1959, as also the orders issued by the Deputy Registrars of Co-operative Societies.

The Hon'ble High Court of Karnataka while disposing of the writ petitions has upheld the constitutional validity of section 14A of the Karnataka Co-operative Societies Act, 1959 but the orders issued by the authorities under section 14A of the Act have been struck down on the ground of non-application of the principle of *udi alterem partem*.

As the amalgamation and reorganization of societies already taken place and the said societies have functioned for quite some time it was not practicable to revert back to the original position. Hence it was considered necessary to validate the action taken earlier by specifically excluding the application of principle of natural justice before taking action under section 14A of the Act by suitably amending the Act with retrospective effect.

Since the Legislature Council was not in session an Ordinance was promulgated. This Bill seeks to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 30th June 1978 as No. 1005 at page 4.)

XIII

Amending Act 16 of 1979.—In December 1968, Government constituted a committee with the Deputy Minister for Co-operation as the Chairman and non-official Presidents of some major co-operative institutions and officers of Government as members to consider the various amendments to the Mysore Co-operative Societies Act, in the light of the policies and programmes of Government and also the experience gained by the Department of Co-operation in implementing the various provisions of the existing Act. The committee after a detailed consideration of the working of the various classes of cooperative societies submitted its recommendations suggesting certain amendments to the Act.

It is considered necessary to amend the Act as recommended by the Committee subject to certain modifications. Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 16th March 1970 as No. 94 at page. 58.)

XIV

Amending Act 3 of 1980.—Under the existing provisions of the Karnataka Co-operative Societies Act, 1959, the Registrar of Co-operative Societies is empowered to get the accounts of the Co-operative Societies audited by a person authorized by him.

In order to ensure that the accounts of the Co-operative Societies are audited by independent persons, the State Government has created a separate audit wing with the Chief Auditor as the head thereof. This wing has been functioning effectively since more than two years.

In order to give the Chief Auditor and officers sub-ordinate to him statutory recognition it was considered necessary to amend the Co-operative Societies Act 1959 suitably. As the matter was very urgent, the Karnataka Co-operative Societies (Amendment) Ordinance 1979 (Karnataka Ordinance No. 20 of 1979) was issued.

Hence this Bill to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 27th February 1980 as No. 139 at page 6.)

XV

Amending Act 4 of 1980.—Section 14A of Karnataka Co-operative Societies Act was first introduced by an amendment to Karnataka Co-operative Societies Act through Karnataka Co-operative Societies Amendment Act 1975. Sub-section (1) of Section 14-A contained a proviso providing for the previous sanction in writing of the Reserve Bank of India in the case of amalgamation, division, Re-organization of Co-operative Banks. This proviso was retained when further amendment were carried out by Karnataka Act 19 of 1976. When the Karnataka Act 70 of 1976 was published carrying out further amendments to the Co-operative Societies Act it is found that this proviso to sub-section (1) of Section 14-A is not found in the Karnataka Act 70 of 1976. In this amendment the sub-section (1) of Section 14-A was substituted by new provision and the proviso was left out.

Hence an amendment to Section 14-A is necessary for incorporating then proviso which was left out while further amendments were made in Karnataka Act 70 of 1976.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 29th February, as No. 151 at page. 3.)

XVI

Amending Act 5 of 1984.—The Karnataka Co-operative Societies Act, 1959 has revealed in the course of working the need for some amendments on the lines of the recommendations made by K. H. Patil Committee for speedy implementation. It has become necessary to amend the provisions relating to audit, so that Government could constitute an audit board for audit of accounts of Milk Co-operative Unions and Milk Co-operative Federations in the State. It has also

become necessary to amend the chapter relating to the “Land Development Bank” so that the bank could take up expeditiously developmental activities for which funds could be made available on the basis of hypothecation of moveable property. The penalties under the Act have been enhanced by way of fine, imprisonment to create a deterrent impact on the persons committing offences under the Act.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 24th February 1984 as No. 139 at page 16.)

XVII

Amending Act 34 of 1985.—It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 for speedy recovery of large amounts due from the members of various Co-operative Institutions in the State of Karnataka. The Amendment proposed enables the State Government to purchase the defaulters’ properties by Government bidding in the public auction and to dispose of such properties in such manner as Government deems fit.

2. As the matter was very urgent, and the Legislative Assembly was not in session, the Karnataka Co-operative Societies (Amendment) Ordinance, 1985 (Karnataka Ordinance No. 15 of 1985) was issued. This Bill seeks to replace the said ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 29th July 1985 as No. 405 at page 3.)

XVIII

Amending Act 34 of 1991.—It is considered necessary to omit section 101-C, since other provisions relating to recovery of Co-operative dues are found to be adequate and the purchase of immovable property by the State Government in the auctions has caused un-necessary anxiety and hardship to the farmers.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 30th September 1991 as No. 622 at page 254.)

XIX

Amending Act 25 of 1998.—Keeping in view the recommendations made by the Committee headed by Sri K. H. Patil and two other committees and also various suggestions made by prominent co-operators and officers of the Co-operative Department, It was considered necessary to amend the Karnataka Co-operative Societies Act 1959,—

- (i) to define primary societies, secondary societies, federal societies and apex societies;
- (ii) to prohibit members of the same family from applying for registration of a co-operative society;
- (iii) to provide deemed registration of co-operative, society and amendment of byelaws within a period of three months from the date of receipt of the proposal;
- (iv) to provide for cessation of membership of a person who fails to fulfill his obligations as a member under the Act, Rules and Byelaws for a continuous period of three years;
- (v) to remove the powers of the Registrar to direct amalgamation, division, and re-organization of co-operative societies;
- (vi) to prohibit a member who is a defaulter from exercising his right to vote at a meeting of the co-operative society
- (vii) to remove the restrictions on holding of shares by the members of co-operative societies;
- (viii) to substitute section 27 to have more comprehensive provision in respect of conducting annual general meeting;
- (ix) to require a committee to make arrangements for election of membership of next committee and also to provide for consequences of default in making such arrangements;
- (x) to provide for nomination of only three persons in the committee of assisted societies;
- (xi) to remove the powers of Government under section 30A and 30B for appointment of special officer;
- (xii) to do away with the Government nomination of one third of the total strength of the committee under section 53A;
- (xiii) to prohibit such nominated members from contesting in the election of President, Vice-President and other office bearers of the committee;
- (xiv) to provide office bearers to continue even after two terms;
- (xv) to make detailed provisions regarding election of President, Vice-President and other office bearers and also filling up of casual vacancy in the office of the members of the committee;
- (xvi) to provide for appointment of Chief Executive of the Co-operative Society and also to specify his powers and functions;

- (xvii) to provide for appointment of Special Officer in case a society is not functioning on account of the number of members of the committee falling short of the required number of quorum;
- (xviii) to incorporate a new Chapter VA and sections 39A to 39K to have comprehensive provisions relating to election of the members of the committee;
- (xix) to remove the powers of the Government under section 121 by deleting the provision;
- (xx) to take power to notify model byelaws.

Certain consequential amendments are also made.

Hence the Bill.

(Obtained from file DPAL16 LGN 97.)

XX

Amending Act 2 of 2000.— Keeping in view the recommendations made by the various Committees and the suggestions made by leading co-operators, it is considered necessary to amend the Karnataka Co-operative Societies Act, 1959,

- (i) to make co-operative institutions economically sound in the interest of society and its members;
- (ii) to bar Industrial Tribunals from entertaining disputes of the nature of industrial disputes arising under the Co-operative Societies Act, in order to avoid multiplicity of forums, and for certain other purposes.

Hence the Bill.

(Obtained from L.A. Bill No. 20 of 1997.)

XXI

Amending Act 13 of 2000.— Several amendments were made to the Karnataka Co-operative Societies Act, 1959 by the Karnataka Co-operative Societies (Amendment) Act, 1997 including the amendments,-

- (i) to deprive a nominated member's right to vote in the election of office bearers and President, Chairperson, Vice President and Vice Chairperson of the Co-operative Society;
- (ii) to omit section 30B which provides for power to give direction in public interest;
- (iii) to omit section 53A which provides for nomination of members to a Committee by the State Government in certain cases.

The Government has come across several hurdles while implementing the amended provisions. The Government has invested a large amount of money in various Co-operative Societies in the form of share capital, loan and subsidy. Further, the Government has also given guarantee to various Co-operative institutions for repayment of loan and interest due by them. Therefore, it is felt that there should be some enabling provision providing for effective intervention by the Government to safeguard public interest and also the interest of the shareholders of a Co-operative Society.

Therefore, it is considered necessary to amend the Karnataka Co-operative Societies Act, 1959,-

(i) to confer voting right on nominated members in the election of office bearers of the Committee and Chairpersons, Vice Chairpersons, President and Vice President so that they can effectively participate in the management of a Co-operative Society;

(ii) to reintroduce the provision 30A empowering the State Government to issue direction in public interest;

(iii) to reintroduce section 52A providing for nomination of members of Committee of a Co-operative Society by the State Government in certain cases where the State Government has given substantial financial assistance.

As the matter was urgent and where both the Houses of the Karnataka Legislature were not in session, the Karnataka Co-operative Societies (Amendment) Ordinance, 2000 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Obtained from L.A. Bill No. 13 of 2000)

XXII

Amending Act 6 of 2001.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Stamp Act, 1957 and the Karnataka Co-operative Societies Act, 1957.

Hence the Bill.

(Vide L.A.Bill No.6 of 2001 File No. ಸ' ಂವ್ ಶ್ರಾಇ 10 ಶಾಸ' ನ 2001)

XXIII

Amending Act 24 of 2001.- To achieve better results in the Co-operative Field and to over come certain difficulties encountered in the effective implementation of

the existing provisions of the Karnataka Co-operative Societies Act, 1959. It is considered necessary to amend the Act to provide for the following, namely:-

(1) To enlarge the definition of "Assisted Society" by including even societies which receive assistance in the form of loan or grant or guarantee for repayment of loan or interest.

(2) To restore the earlier provision providing for appointment of a person as the Director of Co-operative Audit.

(3) To omit section 2B as it is redundant in view of the provisions contained in the Karnataka Appellate Tribunal Act, 1976.

(4) To provide for levy of fee in respect of amendment of bye-laws of Co-operative Societies.

(5) To provide for admission of Self Help Groups as nominal members of a society.

(6) To have a specific provisions indicating when a person shall cease to be a member of a Co-operative Society.

(7) To restore earlier provision providing for expension of time by the Registrar to convene the Annual General Body Meeting of a Society by a period not exceeding six months.

(8) To enhance the total of members of an Apex Society from the existing 25 to 32 and in the case of an urban co-operative bank having an area of operation not beyond a district to enhance it upto 15 members.

(9) To reduce the term of office of the members of the committee from the existing five co-operative years to three co-operative years.

(10) To provide that the nominated members shall not have right to become bearers of a primary co-operative society and any other class or classes of co-operative society as may be specified by the Government and to provide that the members so nominated shall hold office during the pleasure of the Government.

(11) To provide for disqualification under certain circumstances in the case of a person who represents a co-operative society in the committee of District Central Society or with a Federal society or an Apex society.

(12) To reduce the term of office of the office bearers from the existing two and half years to one year.

(13) To provide for appointment and removal of the Chief Executive of an assisted Society by the Government or Registrar.

(14) To provide for supercession of a committee even in case of violation of any direction issued under section 30B and to provide for further extension of period of appointment of an Administrator up to one year in aggregate.

(15) To restore the earlier provision providing for appointment of a Special Officer to a society by the State Government on a report made by the Registrar.

(16) To empower the Registrar to extend the period of appointment of a special officer under section 31 for a further period of one year in the aggregate.

(17) To provide for postponement of election of co-operative societies in the case of natural calamities et.,

(18) To restore earlier provision providing for audit of all co-operative societies by the Director of co-operative Audit.

(19) To provide explicitly for initiation of surcharge proceedings against Government nominees and ex-officio members.

(20) To restore earlier provision providing for exemption of societies from the applicability of the provisions of the Act subject to the modification that it shall not apply to section 30A.

(21) To provide for submission of copies or resolution or order to the Registrar by the Chief Executive and for rescinding or canceling the resolution or order under certain circumstances.

Certain incidental provisions are also made.

Hence the Bill.

(obtained from LA Bill No. 32 of 2000)

XXIIIIV

Amending Act 13 of 2004.- It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 to provide for.-

- (i) conversion of a Co-operative under Karnataka Souharda Sahakari Act, 1997 into a Co-operative Society.
- (ii) voting rights to the Co-operative Societies after 12 months of their admission as in the case of individuals.
- (iii) prior sanction of RBI in respect of a Co-operative Bank under section 26A and 26B.
- (iv) the Registrar to conduct the general meeting in case of failure to the committee to hold Annual general body meeting.
- (v) the election shall be held within a three months from the date of registration of a Co-operative Society or Societies formed after amalgamation or reorganization or division

and that an administrator be appointed for the said period of three months.

- (vi) vesting of powers under section 30, 31, 59 and 64 with the Registrar.
- (vii) appeal provision against the orders of Registrar under sec 12, 17 and 31.
- (viii) vesting of compounding of offences relating to audit with the Director of Co-operative Audit.

Some consequential amendments are also made in view of judgement passed by the Hon'ble High Court in W.A.No: 1899-1912/2001 and W.P.No. 21461/1999.

Hence the Bill

[L.A. BILL No. 1 OF 2004]

(Entry 32 of List II of the Seventh Schedule to the Constitution of India)

¹[KARNATAKA ACT]¹ No.11 OF 1959.

(First published in the ¹[Karnataka Gazette]¹ on the
Twentieth day of August, 1959.)

**THE ¹[KARNATAKA]¹ CO-OPERATIVE SOCIETIES
ACT, 1959**

(Received the assent of the President on the Eleventh day of August, 1959.)

(As Amended by Karnataka Acts, 40 of 1964, 27 of 1966, 16 of 1967, 1 of 1972, 14 of 1973, 2 & 39 of 1975, 19, 70 & 71 of 1976, 14 of 1978, 16 of 1979, 3 & 4 of 1980, 5 of 1984, 34 of 1985, 34 of 1991 and 25 of 1998, 13 of 2000, 6 of 2001, 24 of 2001 and 13 of 2004)

An Act to consolidate and amend the laws relating to co-operative societies in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to consolidate and amend the laws relating to co-operative societies in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Tenth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

CHAPTER I**PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Co-operative Societies Act, 1959.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(3) It shall come into force on such ¹[date]¹ as the State Government may, by notification in the official Gazette, appoint.

1. Act came into force on 1.6.1960 by notification. Text of the notification is at the end of the Act.

2. Definitions.- In this Act, unless the context otherwise requires,—

¹[(a) 'Apex Society' means a federal society whose area of operation extends to the whole of the State;

²[(a1) 'Assisted Society' means a co-operative society which has received the Government assistance in the form of share capital or loan or grant or guarantee for repayment of loan or interest]^{2 1}]

1. Clause (a) and (a1) Inserted by Act 25 of 1998 w.e.f. 15.8.1998 by notification. Text of the notification is at the end of the Act.

2. Substituted by Act 24 of 2001 w.e.f. 05.09.2001 by notification. Text of the notification is as the end of the Act.

¹[(a2)]¹ 'bye-laws' means the bye-laws registered or deemed to be registered under this Act and for the time being in force and includes a registered amendment of the bye-laws;

1. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

²[(a3)] 'Chief Executive' means any employee of a co-operative society by whatever designation called and includes an official of the State Government, an employee of any other institution or co-operative society who discharges the functions of a Chief Executive under the Act, rules or the bye-laws;²

2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

³¹[(a4)]¹ Director of Co-operative Audit² [means a person appointed to perform]² of the Director of Co-operative Audit under this Act and includes an Additional Director of Co-operative Audit, a Joint Director of Co-operative Audit, a Deputy Director of Co-operative Audit, and an Assistant Director of Co-operative Audit appointed to assist the Director of Co-operative Audit when exercising all or any of the powers of the Director of Co-operative Audit.³

1. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 24 of 2001 w.e.f. 05.09.2001

3. Inserted by Act 3 of 1980 w.e.f. 11.8.1977 & substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(b) 'committee' means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;

¹[(b1)] "Co-operative Bank" means a Co-operative Society which is doing the business of banking.

Explanation.—For the purpose of this clause "banking" shall have the meaning assigned to it in section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949).¹

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975 by notification. Text of the notification is at the end of Act. Again substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(c) 'co-operative society' means a society registered or deemed to be registered under this Act;

(d) 'co-operative society with limited liability' means a co-operative society in which the liability of its members, for the debts of the society in the event of its being wound up, is limited by its bye-laws,—

(i) to the amount, if any, unpaid on the shares respectively held by them; or

(ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;

¹[(d1) 'Co-operative Year or year' means the year commencing from the first day of April;]

1. Inserted by Act 5 of 1984 w.e.f. 9.1.1984 & substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[d-2) Co-operative means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) and includes the Union Co-operative and the Federal Co-operative]¹.

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004 by notification. Text of the notification is at the end of the Act.

(e) 'co-operative society with unlimited liability' means a co-operative society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

¹[(e1) 'credit agency' means a credit agency as defined in the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 ²[and includes any other body or corporation or financial institution which gives financial assistance to a co-operative society and has been notified by the State Government from time to time]²]¹;

1. Inserted by Act 2 of 1975 w.e.f. 17.7.1975 by notification. Text of the notification is at the end of the Act.

2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹²[(e2)]² 'Deposit Insurance Corporation' means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(e3) 'employee' means a salaried employee of a co-operative society and includes an official of the State Government or any employee of any other institution or co-operative society who for the time being is working in a co-operative society;

(e4) 'federal society' means a co-operative society, the membership of which is not open to individuals:

Provided that nothing in this clause shall apply to admission of individuals as nominal members;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(e5)]¹ 'Financing Bank' means a co-operative society, the main object of which is to make advances in cash or in kind to other co-operative societies;]¹

1. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

(f) 'member' means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in

accordance with this Act, the rules and the bye-laws and includes a nominal and an associate member;

¹[(g) 'office bearer', means the President, Vice-President, Chairperson, Vice-Chairperson, Liquidator, Administrator, Special Officer and includes a member of the committee or any other person not being an employee empowered to exercise any power or perform any function in regard to the business of a co-operative society and to give directions in regard to policies affecting the business of the society;]

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(h) 'prescribed' means prescribed by rules made under this Act;

¹[(h1) 'primary society' means a co-operative society whose membership is not open to another co-operative society;]

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(i) 'Registrar' means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes an Additional Registrar of Co-operative Societies, a Joint Registrar of Co-operative Societies, a Deputy Registrar of Co-operative Societies and an Assistant Registrar of Co-operative Societies appointed to assist the Registrar when exercising all or any of the powers of the Registrar;]

1. Substituted by Act 40 of 1964 w.e.f. 26.6.1965 by notification. Text of the notification is at the end of the Act.

¹[(i-1) 'Reserve Bank' means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934)]

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

(j) 'rules' means the rules made under this Act,

¹[(j-1) 'Scheduled Castes and Scheduled Tribes' means the Scheduled Castes and Scheduled Tribes specified in respect of the State of Karnataka in the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 for the time being in force;

(j2) 'secondary society' means a co-operative society whose membership is also open to another co-operative society;

(j3) "State Representative" means any person appointed as State representative under section 2A;]

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(k) 'Tribunal' means the tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976)]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.6.1965 and again Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(l) references to any enactment or provision of law not in force in any Area of the ¹[State of Karnataka] shall be construed as references to the corresponding enactment or provision of law, if any, in force in that Area.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

¹[CHAPTER IA

AUTHORITIES AND APPELLATE TRIBUNAL.

2A. Registrar, Additional Registrars, Joint Registrars, Deputy Registrars ²[,State Representatives]² and Assistant Registrars.- (1) The State Government may appoint a person to be the Registrar of Co-operative Societies for the State.

1. Chapter IA inserted by Act 40 of 1964 w.e.f. 26.6.1965.

2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

(2) The State Government may appoint ¹[as many Additional Registrars of Co-operative Societies,]¹ Joint Registrars of Co-operative Societies, Deputy Registrars of Co-operative Societies ²[,State Representatives, and Assistant Registrars of Co-operative Societies either as officiating or otherwise]² as it thinks fit for the purpose of assisting the Registrar.

1. Substituted by Act 14 of 1973 w.e.f. 14.6.1973.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(3) The State Government may appoint such other officers with such designations as it deems fit to assist the Registrar.

(4) All officers and persons employed in the administration of this Act ¹[except relating to the audit]¹ shall be subject to the superintendence, direction and control of the State Government and the Registrar, and the officer or officers to whom each officer appointed under this Act shall be subordinate shall be determined by the State Government:

1. Inserted by Act 3 of 1980 w.e.f. 11.8.1977.

Provided that the power vested in the State Government and the Registrar under this sub-section shall not be exercisable so as to interfere with the discretion of any authority in the exercise of any quasi-judicial function whether as original or appellate authority.

(5) The State Government may, by general or special order, confer on any person appointed as Additional Registrar of Co-operative Societies, Joint Registrar of Co-operative Societies, Deputy Registrar of Co-operative Societies or Assistant Registrar of Co-operative Societies, ¹[either as officiating or otherwise]¹ all or any of the powers of the Registrar under this Act.

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

(6) Notwithstanding anything contained in this Act, matters relating to the ¹[x x x]¹ accounts of every Co-operative society shall be subject to the supervision and control of the Registrar of Co-operative Societies for the State.

1. Omitted by Act 3 of 1980 w.e.f. 11.08.1977.

¹[(7) In proceedings before the Tribunal, the State Representative shall be competent,—

- (i) to prepare and sign applications, appeals and other documents;
- (ii) to appear, represent, act and plead;
- (iii) to receive notices and other processes; and
- (iv) to do all other acts connected with such proceedings,

on behalf of the State Government or any officer appointed under this Act.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[2AA. ²[Director of Co-operative Audit]², ²[Additional Director of Co-operative Audit]², ²[Joint Directors of Co-operative Audit]², ²[Deputy Directors of Co-operative Audit]² and ²[Assistant Directors of Co-operative Audit]².³ [(1) The State Government may appoint a person to be the Director of Co-operative Audit of Co-operative Societies for the State]³

1. Section 2AA inserted by Act 3 of 1980 w.e.f. 11.08.1987.

2. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

3. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) The State Government may appoint an ¹[Additional Director of Co-operative Audit]¹ of co-operative societies and as many ¹[Joint Directors of Co-operative Audit]¹, ¹[Deputy Directors of Co-operative Audit]¹ and ¹[Assistant Directors of Co-operative Audit]¹, of co-operative societies, as it thinks fit for the purpose of assisting the ¹[Director of Co-operative Audit]¹.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(3) The State Government may appoint such other officers with such designations as it deems fit to assist the ¹[Director of Co-operative Audit] ¹.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(4) All officers and persons employed in the administration of this Act relating to audit shall be subject to the superintendence, direction and control of the State Government and the ¹[Director of Co-operative Audit] ¹ and the officer or officers to whom each officer appointed under this section shall be subordinate shall be determined by the State Government:

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

Provided that the power vested in the State Government and the ¹[Director of Co-operative Audit] ¹ under this sub-section shall not be exercisable so as to interfere with the discretion of any authority in exercise of any quasi-judicial function whether as original or appellate authority.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(5) The State Government may, by general or special order confer on any person appointed as ¹[Additional Director of Co-operative Audit] ¹, ¹[Joint Director of Co-operative Audit] ¹, ¹[Deputy Director of Co-operative Audit] ¹ or ¹[Assistant Director of Co-operative Audit] ¹, of co-operative societies, all or any of the powers of the ¹[Director of Co-operative Audit] ¹ under this Act.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(6) Notwithstanding anything contained in this Act, matters relating to audit of every co-operative society shall be subject to the supervision and control of the ¹[Director of Co-operative Audit] ¹.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

¹[2B. x x x] ¹

1. Omitted by Act 24 of 2001 w.e.f. 5.9.2001.

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES.

¹[3. x x x] ¹

1. Omitted by Act 40 of 1964 w.e.f. 26.6.1965.

¹[4. **Societies which may be registered.**- Subject to the provisions of this Act, a co-operative society which has as its objects the promotion of the economic interests or general welfare of its members, or of the public, in accordance with co-

operative principles, or a co-operative society established with the object of facilitating the operations of such a society, may be registered under this Act:

Provided that no co-operative society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the co-operative movement.]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.6.1965.

5. Registration with limited or unlimited liability.- (1) A co-operative society may be registered with or without limited liability:

Provided that the liability of a co-operative society of which any member is a co-operative society, shall be limited.

(2) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative society registered under this Act with limited liability.

6. Application for registration of co-operative societies.- (1) An application for the registration of a co-operative society shall be made to the Registrar in such form¹ [and after complying with such formalities]¹ as may be prescribed; and the applicants shall furnish to him all such information about the society as he may require.

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

(2) Every such application shall conform to the following requirements, namely:—

(a) the application shall be accompanied by ²[five]² copies of the proposed bye-laws of the co-operative society;

(b) where all the applicants are individuals, the number of applicants shall not be less than ten;

(c) every one of the applicants who is an individual shall be above the age of eighteen years¹ [and the applicants shall not be members of the same family.

Explanation.—For the purpose of this clause family in relation to a person means an individual, wife or husband, as the case may be, and their dependent children and parents;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(d) where the objects of the co-operative society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in the same village or town¹ [or in the proposed area of operation of the co-operative society]¹ or belong to the same class or pursue the same occupation;

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(e) the application shall be signed by every one of the applicants who is an individual and by a person duly authorized on behalf of any co-operative society which is an applicant.

¹[(f) the application shall be accompanied by such fee as may be prescribed and different fees may be prescribed for different class or classes of co-operative societies.]¹

1. Inserted by Act 25 of 1998 w.e.f. 27.10.1998 by notification text of the notification is the end of the Act.

¹[(g) in the case of the co-operative which intends to convert itself into a Co-operative Society under this Act, the application shall be accompanied by a resolution of the general meeting of such Co-operative approving such conversion]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

7. Registration.- (1) If the Registrar is satisfied,—

- (a) that the application complies with the provisions of this Act ¹[, rules and the provisions of any other law for the time being in force] ¹;
- (b) that the objects of the proposed society are in accordance with section 4;
- (c) that the aims of the proposed society are not inconsistent with the principles of social justice;
- (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and
- (e) that the proposed society complies with the requirements of sound business and has reasonable chances of success;

¹the [Registrar shall, within a period of three months from the date of receipt of the application, register] ¹the co-operative society and its bye-laws ²[and send by registered post, a certificate of registration and the original registered bye-laws signed with date and seal by him to the chief promoter mentioned in the application or to the chief executive of the Co-operative which is converted]²

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

^{1,2}[(2) If the Registrar is unable to dispose of such application within the period specified in sub-section (1), the society and the bye-laws shall be deemed to have been registered.]²

1. Sub-sections (2) to (4) inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(3) Where the Registrar refuses to register a proposed co-operative society, he shall forthwith communicate his decision, with the reasons therefor, to the person

making the application and if there be more than one to the person who has signed first in the application.

(4) The Registrar shall maintain a register of all co-operative societies registered or deemed to be registered under this Act.¹

8. Registration certificate.- Where a co-operative society is registered¹ [or is deemed to be registered]¹ under this Act, the Registrar shall issue a Certificate of Registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered¹ [or is deemed to be registered]¹ under this Act.

¹ Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

9. Co-operative societies to be bodies corporate.- The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

10. Change of name of co-operative society.- (1) A co-operative society may, by an amendment of its bye-laws, change its name.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a co-operative society shall not affect any rights or obligations of the co-operative society, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

11. Change of liability.- (1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the change.

(4) An amendment of the bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until either,—

(a) the assent thereto of all members and creditors has been, or deemed to have been, obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. Amendment of bye-laws of a co-operative society.- (1) No amendment of any bye-law of a co-operative society shall be valid unless such amendment has been registered under this Act.

¹[(1-A) Every proposal for such amendment shall be accompanied by such fee as may be prescribed, and different fees may be prescribed for different class or classes of co-operative societies]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment,—

(i) is not contrary to the provisions of this Act and the rules;

(ii) does not conflict with co-operative principles;

(iii) satisfies the requirements of sound business;

(iv) will promote the economic interests of the members of the society; and

(v) is not inconsistent with the principles of social justice;

¹[he shall, within a period of three months from the date of receipt of the proposal, register the amendment]¹.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2A) If the Registrar is unable to dispose of such application within the period specified in sub-section (1), the amendment of bye-laws shall be deemed to have been registered.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(3) When the Registrar registers an amendment of the bye-laws of a society or where an amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of amendment certified by him and such certificate shall be conclusive evidence that the amendment of the bye-law has been duly registered or deemed to be registered, as the case may be.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal, together with the reasons therefor, to the society.

¹[(5) If it appears to the Registrar that any amendment of the bye-laws of a co-operative society is necessary or desirable in the interest of such society, the Registrar may, by order, call upon the co-operative society, to make the amendment proposed by him in such manner as may be prescribed and within such time as he may specify.

(6) If such amendment is not made by the co-operative society within the time specified in the said order, notwithstanding anything contained in the Act, the Registrar may, after giving the co-operative society an opportunity of being heard, register the said amendment and forward a copy thereof to the co-operative society along with a certificate signed by him which shall be conclusive evidence that the amendment has been duly registered.]¹

1. Sub-sections (5) and (6) inserted by Act 5 of 1984 w.e.f. 09.01.1984.

13. When amendments of bye-laws come into force.- Subject to any appellate order under section 106, an amendment of the bye-laws of a co-operative society shall unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. Amalgamation, transfer of assets and liabilities and division of co-operative societies.- (1) A co-operative society may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of the society,—

(a) divide itself into two or more co-operative societies; or

(b) transfer its assets and liabilities in whole or in part to any other co-operative society which by a like resolution agrees to such transfer.

(2) Any two or more co-operative societies may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of each such society amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be, and no such resolution shall have any effect unless approved by the Registrar.

¹[Provided that in the case of a co-operative bank, the Registrar shall not approve such resolution without the previous sanction in writing of the Reserve Bank.]

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

(4) When a co-operative society has passed any such resolution, and it has been approved by the Registrar, the co-operative society shall give notice thereof in writing to all its creditors and such members of the society as did not vote in favour of the resolution and, notwithstanding any bye-laws or contract to the contrary, any creditor or any member to whom such notice is given shall during the period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) and every member who has voted in favour of the resolution shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until either,—

(a) the assent thereto of all the members and creditors has been, or deemed to have been, obtained under this section or;

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

^{1 2}
[²14A. x x x]²

1. Sections 14A to 14C inserted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Section 14A, Omitted by Act 25 of 1998 w.e.f. 15.8.1998.

14B. Registrar to prepare scheme for amalgamation of co-operative banks in certain areas.- (1) Where an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 (Central Act 10 of 1949) in respect of a co-operative bank, the Registrar may, during the period of moratorium, prepare a scheme,—

(i) for the re-organization of the co-operative bank; or
(ii) for the amalgamation of the co-operative bank with any other co-operative bank.

(2) No such scheme shall be given effect to unless it has been sanctioned by the Reserve Bank.

14C. Liability of co-operative bank to the Deposit Insurance Corporation.-

Notwithstanding anything contained in section 14 or other provision of this Act, where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961) is amalgamated or re-organized and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated or the new co-operative bank formed after such amalgamation or, as the case may be, the insured bank or transferee bank shall be under an obligation to repay the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance Corporation Act, 1961.]¹

15. Cancellation of registration certificates of co-operative societies in certain cases.- (1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 14, ¹[or section 14A] the registration of the first mentioned co-operative society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 14, ¹[or section 14A] the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each such society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

(3) Where a co-operative society ²[is divided]² into two or more co-operative societies in accordance with the provisions of section 14, ¹[or section 14A] the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Substituted by Act 39 of 1975 w.e.f. 23.9.1975.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES.

16. Persons who may become members.-¹ [(1) Subject to the provisions of section 17, no person shall be admitted as a member of a co-operative society except the following, namely:—

(a) an individual competent to contract under the Contract Act, 1872 (Central Act IX of 1872):

(b) any other co-operative society;

(c) the state Government or the Central Government;

(d) the Life Insurance Corporation of India, State Warehousing Corporation and such other institutions as may be approved by the State Government;

(e) a firm, a company or any other body corporate constituted under any law for the time being in force including a society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960);

(f) a Market Committee established under the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966);

(g) a local authority.

Explanation.—For the purpose of this clause, local authority means, a Municipal Corporation, Municipal Council, Town Panchayat, Zilla Panchayat, Taluk Panchayat or Grama Panchayat constituted under any law for the time being in force.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹ [(2) No co-operative society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this ² [Act, rules and bye-laws]² .

1. Sub-sections (2) to (4) substituted by Act 40 of 1964 w.e.f. 26.6.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(3) Any person seeking admission as a member of any co-operative society shall make an application in writing for admission as a member of such society.

(4) Every co-operative society shall within three months from the date on which application for admission was delivered to such society either admit or refuse to admit any such person as a member, and shall send a written communication of such admission or refusal to the applicant before the said period. If no communication of admission as a member is received by the applicant before the expiry of the said period, his application for admission shall be deemed to have

been refused by the co-operative society on the last day of the said period for purposes of section 105A.]

¹[(5) Notwithstanding anything contained in the preceding sub-sections or section 18 or the rules and the bye-laws of such co-operative society or classes of co-operative societies as the State Government may, by notification, specify, an individual who makes an application for admission as a member of such co-operative society shall be deemed to have been admitted as an associate member of such co-operative society from the date of receipt of such application.

1. Sub-sections (5) to (7) inserted by Act 19 of 1976 w.e.f. 20.1.1976.

(6) If the society does not, within ¹[sixty days]¹ from the said date, prefer an application to the Registrar objecting to such admission, such individual shall be deemed to have been admitted as a member.

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(7) Where the application under ¹[sub-section (6)]¹ is preferred, the Registrar shall, after giving to the individual and the co-operative society concerned an opportunity of making representation, by order, reject the application if he finds that the individual is not disqualified under section 17 for being a member and thereupon the individual shall be deemed to have been admitted as member of the co-operative society concerned.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(8) Notwithstanding anything contained in this section and section 17, the State Government shall be deemed to have been admitted as a member of a co-operative society on the day it subscribes to the share capital of such co-operative Society.]¹

1. Inserted by Act 16 of 1979 w.e.f. 1.6.1960.

17. Disqualification for membership.- (1) No person shall be eligible for admission as a member of a co-operative society, if he,—

(a) has applied to be adjudicated an insolvent or is an undischarged insolvent; or

(b) has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude, such sentence not having been reversed or the offence pardoned and a period of five years has not elapsed from date of expiry of the sentence.

¹[(c) carries on ²[XXX]² business of the kind carried on by such co-operative society;

²**[Explanation.—XXX]**²

(d) is already a member of a co-operative society carrying on business of the same kind as itself;¹

1. Clauses (c) and (d) inserted by Act 71 of 1976 w.e.f. 03.11.1976.

2. Omitted by Act 13 of 2004 w.e.f. 22.03.2004

(2) If a member becomes subject to any of the disqualifications specified in ¹ [x x x] ² sub-section (1)]¹, he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

1. Substituted by Act 71 of 1976 w.e.f. 3.11.1976.

2. Omitted by Act 25 of 1998 w.e.f. 15.8.1998.

¹ [(2A) If a member fails to fulfil his obligations as a member under the Act, rules or bye-laws, for a continuous period of three years, he shall, on the expiry of such period, cease to be a member.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹ [(3) If any question arises as to whether a member is deemed to have ceased or has ceased to be a member under sub-section (2) or (2A), the Registrar may either suo-motu or on a report made to him and after giving an opportunity to the person concerned of being heard, decide the question.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

18. Nominal or associate members.- ¹ [(1) Notwithstanding anything contained in section 16, a co-operative society may admit,—

(a) any individual as a nominal or associate member;

(b) any banking company as a nominal member.

² [(c) any firm, company, co-operative society, or any body or corporation constituted by or under any law for the time being in force, as a nominal or associate member;]²

³ [(d) Self help group as nominal members]³

Explanation.—In this sub-section “banking company” shall have the same meaning as is assigned to it in the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961).

1. Sub-sections (1) and (2) substituted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

3. Inserted by Act 24 of 2001 w.e.f. 5.9.2001.

(2) A nominal member shall not be entitled to any share in any form whatsoever in the assets or profits of the society and a nominal member who is an individual shall not also be entitled to become an ¹[office bearer]¹ of the society.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(3) An associate member may hold shares but shall not be entitled to become an ¹[office bearer]¹ of the society.

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(4) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

¹**[18A. Cessation of membership.-** A person shall cease to be a member of a co-operative society,-

(a) in the case of an individual, on his or her,-

(i) death;

(ii) resignation;

(iii) removal or expulsion in accordance with bye-laws of the co-operative society; or

(iv) transfer of whole of his or her share or interest in the co-operative society to another member;

(b) in the case of a firm, company, co-operative society or corporate body,-

(i) on dissolution of the firm or a corporate body;

(ii) on winding up of a company or a co-operative society.]¹

1. Section 18A inserted by Act 24 of 2001 w.e.f. 5.9.2001.

19. Member not to exercise rights till due payment made.- ¹[Save as otherwise provided in sub-section (8) of section 16, no member]¹ of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society, as may be specified in the bye-laws.

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹**[20. Votes of members.-** (1) No member of a society shall have more than one vote in the affairs of the co-operative society.

²[Provided that where the State Government is a member of a co-operative society, each person nominated or deemed to have been nominated by the State Government on the committee of such co-operative society shall have one vote.]²

1. Substituted by Act 71 of 1976 w.e.f. 3.11.1976.

2. Substituted by Act 16 of 1979 w.e.f. 18.12.1978.

(2) The following shall not have the right to vote at a meeting of the co-operative society in which they are members, namely:—

¹[(a) a nominal or associate member;

(a-i) an individual member who is a defaulter;

(a-ii) members admitted as per ²[clauses (d), (e), (f) and (g) of sub-section (1) of section 16,] ²who are defaulters;]¹

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(a-iii) ²[a person]² who has become member of a society not later than ³[twelve months] ³prior to the date of such meeting:

Provided that nothing in this clause shall apply to ²[a person]² of a society participating in the first general body meeting of such society held immediately after its registration;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 13 of 2004 w.e.f. 22.3.2004.

3. Substituted by Act 24 of 2001 w.e.f. 5.9.2001.

(b) a co-operative society,—

(i) the committee of which stands superseded or to which a special officer is appointed under ¹[section 31] ¹of the Act;

(ii) which is ¹[ordered to be wound up] ¹under section 72;

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(iii) which has not commenced working or has ceased to work;

¹[(iv) whose principal object is to advance loans and whose percentage of recovery is less than seventy five percent of the total demand for the co-operative year immediately preceding the co-operative year during which the meeting is held and which has failed to pass on to the financing bank or the credit agency, as the case may be, to which it is indebted,-

(a) seventy five percent of the demand of the society, if the demand of the society is less than the demand of the financing bank or credit agency, or

- (b) the actual demand of the financing bank or credit agency, if the demand of the society is more than the demand of the financing bank or credit agency,

not later than fifteen days of the close of the said co-operative year.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(v) other than the society referred to in sub-clause (iv), which is a defaulter;]

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(c) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.8.1998.

Explanation.—A member shall be deemed to be a defaulter if he has failed to pay the arrears of any kind due by him to the society² [as borrower]², ¹[or has failed to pay any other amount due by him to the society]¹ at least fifteen days before the date of such meeting after a notice of not less than ²[fifteen days]² in this behalf has been issued to him.]

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

¹[(3) An Agricultural Credit Society which is a member of the concerned District Central Co-operative Bank, but has been permitted by the Registrar to raise loan from another financing agency for the purpose of financing its members shall not have a right to vote at a meeting of such District Central Co-operative Bank.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

21. Manner of exercising vote.—¹[(1) Every member, every delegate and every nominee shall exercise his vote in person and not by proxy.]¹

1. Substituted by Act 19 of 1976 w.e.f. 21.01.1976.

(2) Notwithstanding anything contained in sub-section (1),—

¹[(a) the committee of a co-operative society which is a member of another co-operative society may appoint one of the members of the committee to vote on its behalf in the affairs of that other society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 13 of 2004 w.e.g. 22.03.2004.

¹[(b) where the Life Insurance Corporation of India, the State Warehousing Corporation or such other institutions approved by the State Government or a market committee or a local authority or a firm, a company or any other body

corporate constituted under any law for the time being in force is a member of a co-operative society, a person nominated by such institution, market committee or local authority or a firm, a company or any other body corporate constituted under any law for the time being in force, may vote on its behalf in the affairs of the society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(3) A member once nominated by the committee of a co-operative society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other co-operative society shall not be changed except by a resolution passed in a general body meeting by a majority of the members present and voting in such meeting.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[22. x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

23. Restrictions on transfers of shares or interest.- ¹[(1) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) No transfer by a member of his share or interest in a co-operative society shall be valid unless,—

- (a) the member has held such share or interest for not less than one year;
- (b) the transfer is made to a member of the society; and
- (c) the transfer is approved by the Committee of the society.

¹[**23A. Refund of value of share.-** (1) If an individual member of a co-operative society, the principal object of which is to advance agricultural loans is not indebted to such society, then, the value of all except one of the shares held by him shall, on his application, be refunded to him.

(2) If the amount of debt due by such member to the co-operative society is equal to or less than the value of all except one share held by him in such society, then, on the application of such member, the value of such number of shares as are required to discharge the amount of debt may be adjusted in full discharge of such debt and the value of the remaining share, except one, shall be refunded to him thereupon the share certificates relating thereto shall be cancelled.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

24. Transfer of interest on death of member.- (1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member,—

(a) to the person or persons nominated in accordance with the rules and if the nomination subsists; or

(b) if no person has been so nominated or the nomination does not subsist,

(i) where the share or interest of the deceased member does not exceed ¹[one lakh rupees] ¹, to such persons as may appear to the Committee to be the heirs or legal representatives of the deceased member, on the execution by such persons of an indemnity bond with such sureties as it may require;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(ii) where the share or interest of the deceased member exceeds ¹[one lakh rupees] ¹, to such person or persons as produce a succession certificate or other legal authority granted by a competent court of law:

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

Provided that such nominee, heir or legal representative as the case may be, is admitted as a member of the society:

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a co-operative society.

(2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules.

(3) A co-operative society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effective against any demand made upon the society by any other person.

25. Liability of past member and estate of deceased member.- (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed,—

(a) in the case of a past member, on the date on which he ceased to be a member; and

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Where a co-operative society is ordered to be wound up under section 72, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES.

¹[26. **Final authority in a co-operative society.**- (1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a co-operative society shall vest in the general body of members:

Provided that nothing contained in this sub-section shall affect the exercise by a committee or any ²[office bearer]² of a registered co-operative society of any power conferred on such committee or such ²[office bearer]² by this Act or the rules or the bye-laws.

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) Notwithstanding anything contained in sub-section (1),—

- (a) where the area of operation of a co-operative society is not less than the area that may be prescribed; or
- (b) where a co-operative society consists of not less than the number of members that may be prescribed,

the Registrar may amend the bye-laws of the co-operative society providing for the constitution of a smaller body consisting of such number of the members of the co-operative society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws and any reference, by whatever form or words in this Act to the general body or a meeting thereof shall have effect as if such reference were a reference to the representative general body or a meeting thereof, as the case may be.

(3) The amendments of the bye-laws made by the Registrar under sub-section (2) shall be deemed to have been registered under section 12.

(4) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be prescribed by the rules or by the bye-laws.]¹

¹**26A. Partnership of Co-operative Societies.-** (1) Any two or more co-operative societies may, by resolution, passed by three-fourth majority of the members present and after voting at a general meeting of each of such co-operative societies, may enter into partnership to carry out any one or more specific business. ²[xxx]² A written notice of the date of general meeting shall be given to each member before ten clear days of such meeting.

³[Provided that no such partnership shall be entered into without prior permission of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank]³

1. Sections 26A and 26B inserted by Act 2 of 2000 w.e.f. 31.05.2003 by notification dated 02.06.2003. Text of the notification is at the end of the Act.

2. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.

3. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) Nothing in the Indian Partnership Act, 1932 (Central Act 9 of 1932) shall apply to such partnership.

26B. Collaboration by Co-operative Societies.- (1) Any co-operative society or co-operative societies may enter into collaboration with any Government undertaking or any other undertaking approved by the State Government to carry out any one or more specified business provided in the bye-laws of such society or societies including industrial investment, financial aid or marketing and management expertise. ¹[xxx]¹

²[Provided that no such partnership shall be entered into without prior permission of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank]²

1. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.

2. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) Before approving such schemes of collaboration under sub-section (1), the Registrar ¹[or Reserve Bank of India, as the case may be]¹ shall have due regard to the following matters, namely:-

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(a) the scheme is economically viable;

(b) It can be implemented without, in any way, altering the co-operative character of the co-operative society or the co-operative societies;

(c) the scheme is in the interest of the members of the co-operative society or co-operative societies or is in the public interest or in the interest of the co-operative movement, in general]¹

¹[(d) in the case a of Co-operative Bank, the scheme is not detrimental to the interest of depositors or Banking Policy]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

¹**[27. Annual General Meeting.-** (1) Every co-operative society shall convene a general meeting of its members once in a year before thirtieth day of September for the purpose of,—

- (a) consideration of annual report presented by the committee;
- (b) consideration of latest available audit report and the report of the committee thereon;
- (c) consideration of inquiry report, if any;
- (d) disposal of net profits;
- (e) review of operational deficit, if any, and programme to reduce such deficit;
- (f) approval of the programme of activities of the society prepared by the committee for the ensuing year;
- (g) approval of the annual budget;
- (h) creation of specific reserve and other funds;
- (i) approval of membership of the co-operative society in other co-operative societies;
- (j) review of annual report and accounts of any subsidiary organization, if any;
- (k) perusal of list of the employees recruited who are relatives of members of the committee or the Chief Executive;
- (l) amendment of bye-laws;
- (m) formation of code of conduct for the members of the committee, office bearers and employees of the co-operative society;
- (n) note on admission and termination of members; and
- (o) consideration of any other matter which may be brought forward in accordance with the bye-laws.

²[Provided that the Registrar may by special order extend the period for holding such meeting by a period not exceeding six months]²

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar shall by order,—

(a) in case of an office bearer or member of the committee whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, disqualify him for being elected as and for being an office bearer or member of the committee for such period not exceeding five years;

(b) in case of an employee of the society whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, impose a penalty of rupees one thousand and may also direct the committee to initiate disciplinary action on such employee and if the amount so fined remains unpaid, it shall be recovered as arrears of land revenue:

Provided that no order shall be made under this sub-section unless a reasonable opportunity of being heard is given to the person against whom the order is to be made.]¹

¹[(3) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar or any other person authorized by him in this behalf shall, without prejudice to the provisions of sub-section (2) convene the general meeting for the purpose of sub-section (1)]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

28. Special general meeting.- (1) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from ¹[fifty members or one fifth of the total number of members whichever is less, to transact a specified business]¹.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorized by him in this behalf, shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee and shall have power to transact all business which can be transacted at the annual general meeting under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar.

¹**[28A. Management of co-operative societies vest in the committee.-** (1) The management of a co-operative society shall vest in a committee constituted in accordance with this Act, the rules and the bye-laws of such society. The committee

shall exercise such powers, discharge such duties and perform such functions as may be conferred or imposed upon it by this Act, the rules and the bye-laws.

¹ 1. Section 28A inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹ [(2) The committee of a co-operative society shall consist of not less than nine but not exceeding the number of members specified below excluding Government nominees and the Chief Executive, namely:—

(i) in the case of a primary society and a secondary society whose area of operation extends to,—

(a) a part of a taluk, nine members;

(b) whole taluk, eleven members;

(c) beyond a taluk but not beyond a district, thirteen members;

² [Provided that in the case of an urban co-operative bank having an area of operation not beyond a district, the maximum number shall not exceed fifteen members]²

(d) beyond a district, eighteen members;

1. Sub-sections (2) to (6) Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 24 of 2001 w.e.f. 5.09.2001.

(ii) in the case of a federal society, excluding Apex societies, twenty one members;

¹ [(iii) in the case of an Apex society, thirty two members:]¹

1. Substituted by Act 24 of 2001 w.e.f. 5.09.2001.

Provided that a member shall not represent more than one constituency in the committee of a society.

(3) In the committee of every primary society there shall be reserved:—

(i) one seat to be filled by election, in favour of the persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) one seat to be filled by election, in favour of women:

Provided that no such reservation shall be required to be made in case of a society where there are no members belonging to the Scheduled Castes, Scheduled Tribes and Women.

(4) Subject to the provisions of sections 29A and 39A, the term of office of the members of the Committee shall be five co-operative years and they shall be deemed to have vacated office as such members of the Committee on the date of completion of the said term:

Provided that if an election to the Committee of any co-operative society had already been held in accordance with the bye-laws of such society, prior to the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1997, the term of office of the committee of such co-operative society shall be three years including the co-operative year in which such election was held.

Explanation.—For the purpose of this sub-section where elections to the committee have been held in the middle of a co-operative year, for the purpose of computing the term of office of the committee, the remaining part of the co-operative year shall be deemed to be a co-operative year:

Provided further that the first general meeting of a society after registration shall be held within one month from the date of its registration to elect the first committee to manage the affairs of the society and the term of office of such committee shall also be five co-operative years.

¹[Provided also that the first general meeting of the Co-operative Society or Societies formed after amalgamation or reorganization or division in accordance with section 14 shall be held within three months from the date of registration to elect the first committee to manage the affairs of the Co-operative Society or Societies, and the term of office of such committee shall also be five Co-operative years]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(5) If the new committee is not constituted under section 29A, on the date of expiry of the term of office of the Committee, the Registrar or any other officer within whose jurisdiction the society is situated, and who is authorized by the Registrar, shall be deemed to have assumed charge as Administrator and he shall, for all purposes function as such committee of management. The Administrator shall, subject to the control of the Registrar, exercise all the powers and perform all the functions of the committee of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required, in the interest of the co-operative society.

¹[Provided that the Registrar shall appoint an administrator to a Co-operative Society or each of the co-operative Societies formed after amalgamation or reorganization or division in accordance with section 14 for a period of three months and the administrator so appointed shall arrange for holding elections to a Committee of such Co-operative Society or Societies as the case may be]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(6) The ¹[members]¹ of the committee shall elect from among themselves the office bearers of the co-operative society. The election of the office bearers shall be by secret ballot.]¹

¹ 1. Substituted by Act 13 of 2000 w.e.f. 26.02.2000.

¹**[28B. Committee to arrange for election.-** (1) The committee shall make arrangement for election of members of the next committee in accordance with the Act, rules and the bye-laws.

(2) The members of the committee who have failed to make arrangements for election within the time limit specified in section 39A, shall be deemed to have vacated their office on the last day of the time limit so specified and such members shall not be eligible for election as members of the committee for a period of five years from the date of expiry of their term.

(3) The Administrator who shall assume charge under sub-section (5) of section 28A, shall, as early as possible but within a period of six months arrange for the constitution of a new committee of the society in accordance with the Act, rules and the bye-laws.]¹

¹ 1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹**[29. Nominees of Government on the committee of an assisted co-operative society.-** (1) The State Government may nominate not more than three persons as its representatives on the committee of any assisted society of whom one shall be a person belonging to the Scheduled Castes or Scheduled Tribes and one shall be a woman.

¹ 1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2) The persons so nominated shall not have the right to become office bearers of the primary co-operative societies and any other class or classes of co-operative societies as may be specified by the State Government from time to time]¹

¹ 1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[(3) The persons nominated as a member of co-operative society under sub-section (1) shall hold office as such member during the pleasure of the State Government.]¹

¹ 1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(4) Where an officer of Government is nominated under sub-section (1), such officer may, if unable to be present himself at any meeting of the committee, depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be a person nominated as a representative of the State Government for the purpose of such meeting.]¹

¹**[29A. Commencement of term of office.-** ²[(1)]^{2 3} [The term of office of the elected members of the committee shall commence on the date on which the majority of the elected members of the committee assume office or the term of the out going committee expires, whichever is later.]

1. Sections 29A to 29D Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Renumbered by Act 19 of 1976 w.e.f. 20.01.1976.

3. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2) Notwithstanding anything contained in this Act or the rules or the bye-laws of a co-operative society, the committee shall be deemed to be duly constituted when ³[the majority of the elected members of the committee are available]³ to function as members of the committee after the ²[x x x]² election.

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(3) The committee deemed to be constituted under sub-section (2) shall be competent to exercise all the powers and perform all the functions of the committee of the co-operative society.

¹[(4) x x x

(5) x x x

(6) x x x]^{1 1}

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹**[29B. Resignation of a member.-** A member of a committee, other than a nominated member, may resign his membership in writing under his hand and delivered to the Chief Executive and his seat shall become vacant on the expiry of fifteen days from the date of such delivery unless within the said period of fifteen days he withdraws such resignation in writing under his hand and delivered to the Chief Executive. The Chief Executive shall place the letter of resignation before the meeting of the committee convened next after the delivery of such letter.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

29C. Disqualification for membership of the committee.- (1) No person shall be eligible for being elected or appointed or continued as a member of the ¹[committee of any co-operative society]¹, if,—

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(a) he is in default to that society or any other co-operative society in respect of any dues from him as borrower;]

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(b) he is interested directly or indirectly in any contract made with such co-operative society or in the sale or purchase made by such co-operative society privately or in auction or in any contract or transaction of the co-operative society (other than investment and borrowing) involving financial interests in that contract, sale, purchase or transaction;

(c) ¹[he or any of his near relation carries] ¹on a business of the kind carried on by such co-operative society or by a co-operative society of which such co-operative society is a member;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[Provided that if any question arises as to whether any person is near relation or not, the case shall be decided by the Registrar and his decision shall be final.]

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(d) he is employed as legal practitioner on behalf of such co-operative society or accepts employment as legal practitioner against such co-operative society;

(e) he is a paid employee of such co-operative society or of its financing bank;

¹[x x x] ¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984 and Omitted by Act 24 of 2001 w.e.f. 05.09.2001.

(f) he is a near relation of a paid employee of such co-operative society.

¹[**Explanation.**—For the purpose of ²[this clause and clause (c)] ²‘near relation’ means,—

(i) husband, wife and unmarried daughter;

(ii) father, mother, undivided son, undivided brother and unmarried sister; and

(iii) such other relations as may be prescribed to be a near relation.

³[x x x] ^{3 1}

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Omitted by Act 70 of 1976 w.e.f. 04.12.1976.

¹[(g) he was a paid employee of a co-operative society and was dismissed, removed or compulsorily retired from service of a co-operative society;

(h) he is disqualified to be a member of the society or to vote as such member;

(i) he has been convicted for an offence punishable under section 153A or section 171E or section 171F or sub-section (2) or sub-section (3) of section 505 of the Penal Code, 1860 (Central Act 45 of 1860) or under section 39J or clause (b) of sub-section (2) of section 39K of this Act, unless a period of six years has elapsed from the date of such conviction;

(j) he has been convicted by a Court in India for any offence and sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed from the date of his release;

(k) he is found guilty of corrupt practice within the meaning of section 39C unless a period of six years has elapsed from the date on which he was found guilty;

(l) he has failed to remit to any co-operative society any amount (other than a loan) retained by him in contravention of the provisions of this Act, rules or bye-laws;

(m) he is a representative of a co-operative society which is in default to a financing bank or to any co-operative society in respect of any dues by the co-operative society which he represents, for a continuous period of one year:

Provided that the disqualification under this clause for being continued as a member of the committee shall apply to a co-operative society which has defaulted in payment of an amount exceeding thirty percent of such dues;

(n) he was a member of the committee which failed to make arrangement for election within the time limit specified in section 39A.]¹

1. Clauses (g) to (n) inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(o) he, is in the Committee of a District Central Society or a Federal Society or an Apex Society as a representative of a Co-operative Society; and,-

(i) he ceases to be a member of the primary or secondary society which he represents; or

(ii) the society which nominated him as a representative withdraws his nomination; or

(iii) the committee of the society of which he is a member has been removed under section 30, or a special officer is appointed under section 31;

(iv) the society of which he is the representative has been liquidated;]¹

¹ Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) No person including a person elected by a co-operative society as a member of a committee of another co-operative society of which such co-operative society is a member shall be a ¹[President or Chairperson, Vice-President or Vice-Chairperson or other office bearer]¹ of more than two co-operative societies.

¹ Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(3) x x x]¹

¹ Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(4) Nothing in sub-section (2) shall apply,—

(i) to any person who is appointed by the State Government or the Registrar as the President or Chairperson, Vice-President or the Vice-Chairperson; or

(ii) to any person who is merely a member of the committee.]¹

¹ Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(5) In the case of co-operative marketing societies, consumers co-operative societies and such class or classes of co-operative societies as may be specified by the State Government, by notification in the official Gazette, no member shall be eligible for being appointed or elected as a member of the committee of such co-operative society if he does not fulfill the minimum qualifications relating to his transactions with the co-operative society upto such monetary limits as may be specified from time to time in such notification.

(6). There shall be no representative of individual members on the committees of a District Central Co-operative Bank or an Apex Co-operative Bank or such other classes of co-operative banks as may be prescribed.

(7) Any question as to whether a member of the committee was or has become subject to any of the disqualifications mentioned in this section shall be decided by the Registrar after giving the person concerned a reasonable opportunity of being heard.

¹[(8) If any member of a committee of a co-operative society during the term of his office,—

(a) becomes subject to any disqualifications specified in sub-sections (1), (2) and (5); or

(b) has acted or has been acting fraudulently or with gross negligence or in contravention of the provisions of this Act, the rules or the bye-laws of the co-operative society or without the sanction of the committee of the co-operative society where such sanction is necessary or contrary to the resolution of the co-operative society or its committee or in any way prejudicial to the interest of the co-operative society; or

(c) has acted or has been acting persistently against the directions or orders issued under this Act, rules or bye-laws; or

(d) is not discharging his duties satisfactorily; the Registrar may either on a report made to him or otherwise, by order remove such member, and in cases falling under clauses (a), (b), (c) and (d) of this sub-section disqualify him from holding any office in the co-operative society for such period not exceeding five years, as may be specified in such order:

Provided that no order shall be made under this sub-section unless a reasonable opportunity of being heard, is given to the person against whom the order is to be made.

(9) A copy of the order made under sub-section (8) shall be communicated to the member and the co-operative society concerned.]¹

¹ Sub-sections (8) and (9) inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹ [29D. x x x]]¹

¹ Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹ [29E. **Filling up of casual vacancy in the office of members of the Committee.-** Any vacancy in the office of members of the committee of a co-operative society by reason of death, resignation, removal or otherwise, shall be filled up in such manner as may be specified in the bye-laws of such society.

¹ Sections 29E and 29F inserted by Act 25 of 1998 w.e.f. 15.08.1998.

29F. Election of President, Chairperson, Vice-President, or Vice-Chairperson, etc.,- (1) Every co-operative society shall have a President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers elected in accordance with the provisions of this Act, rules or bye-laws.

(2) The President or Chairperson shall preside over meetings of the committee of the society and its sub-committee as well as general meeting of the society.

(3) In the event of vacancy in the office of President or Chairperson by resignation, death or removal or otherwise, the Vice-President or Vice-Chairperson

shall perform the duties of the President or Chairperson as the case may be, until a member is duly elected as President or Chairperson.

(4) The Chief Executive shall within fifteen days from the date of constitution or deemed constitution of the committee after a general election and immediately before the expiry of the term of office of the President or Chairperson, Vice-President or Vice-Chairperson convene a meeting in the prescribed manner of all the ¹[members] of the committee for the purpose of electing President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected under the bye-laws of the co-operative society. One of the ¹[members] who is not a candidate for the election of President or Chairperson, Vice-President or Vice-Chairperson shall be chosen to preside over such meeting:

1. Substituted by Act 13 of 2000 w.e.f. 26.02.2000.

Provided that the members of the first committee elected in the first general meeting held after the registration of a co-operative society shall elect the President or Chairperson, Vice-President or Vice-Chairperson and other office bearers in such manner as may be prescribed.

(5) Save as otherwise provided under this Act, the President or Vice-President, Chairperson or Vice-Chairperson or other office bearers shall hold office for a term of two and half years.

(6) The Chief Executive shall as and when there is a casual vacancy in the office of the President, or Chairperson, Vice President or Vice Chairperson or other office bearers convene a meeting of the ¹[members] of the committee for the purpose of filling up the casual vacancy and the provisions of sub-section (4) shall *mutatis mutandis* apply.

1. Substituted by Act 13 of 2000 w.e.f. 26.02.2000.

(7) The Chief Executive shall within three days from the date of the meeting, forward to the Registrar a copy of the notice convening the meeting and also a copy of the proceedings of the meeting.

(8) If the Chief Executive fails to convene the meeting in accordance with sub-sections (4) and (6), the Registrar or any person authorized by him to do so shall convene a meeting for the purposes specified in the said sub-sections.]¹

¹**[29G. Appointment of Chief Executive.-** (1) For every co-operative society there shall be a Chief Executive who shall subject to the provisions of section 128A be appointed and be removable by the society:

1. Section 29G inserted by Act 25 of 1998 w.e.f. 27.10.1998.

Provided that,—

¹[Subject to such rules as may be prescribed, in case of an assisted society, the Government or the Registrar shall have power to appoint and remove the Chief Executives; and]¹

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(ii) ¹[in other cases]¹, the Government or the Registrar may appoint Chief Executives where such Society makes a request for appointment of a Chief Executive for a term which shall not be less than five years; and remove such Chief Executive.

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) On the appointment of Chief Executive to a co-operative society by the Government or the Registrar, the person appointed as Chief Executive by the society, if any, by whatever name called, shall cease to be the Chief Executive.

(3) Salary and other conditions of services of the Chief Executive shall,—

(i) in the case of an official of the State Government be as approved by the State Government; and

(ii) in other cases, be as approved by the Registrar:

Provided that where a cadre for the post of Chief Executive common to any class of co-operative societies has been created under section 128A, the recruitment, 'appointment and other conditions of service of persons appointed to such posts including the person appointed before the creation of such service, shall be governed by the provisions of that section and the regulations made in that behalf.

(4) The Chief Executive shall be the Chief Administrative Officer of the society and shall, subject to the general supervision and control of the committee and such other conditions and restrictions as may be specified in the bye-laws,—

(a) be responsible for general supervision and control over the employees of the society and be responsible for the day-to-day management and business of the society;

(b) carry on the authorized and normal business of the society;

(c) make arrangement for repayment of loans due to the State Government and loans obtained on Government guarantee and other loans, and shall send report to the Registrar in this behalf;

(d) be responsible for operating the bank accounts in accordance with the provisions of the bye-laws and shall make arrangements for safe custody of cash:

(e) sign and authenticate all documents of the co-operative society for and on behalf of the society;

(f) be the custodian of all records and documents of the co-operative society and shall make arrangements for the correct maintenance of accounts and various books and records of the society and for the correct preparation and timely submission of periodical statements and returns in accordance with the provisions of the Act, rules and bye-laws and as directed by the Registrar or the Director of Co-operative Audit;

(g) be responsible for convening the meeting of the general body, the committee of management and the sub-committee in consultation with the President or Chairperson and recording and maintaining minutes of such meetings;

(h) assist the committee in the formulation of policies and objectives and planning;

(i) provide necessary information to the committee and apprise the committee the functions and operations of the society;

(j) sue and be sued on behalf of the co-operative society;

(k) perform such other duties and exercise such other powers imposed or conferred on him under the Act, rules or bye laws.

¹[(4A) The Chief Executive shall have right to attend every meeting of the society and the committee thereof and to take part in the decision and to move any resolution or to vote]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(5) In addition to the powers and duties specified in sub-section (4), the Chief Executive of an Apex Society,—

(a) shall have power to appoint with the approval of the committee and subject to the provisions of the Act, rules and the bye-laws, necessary staff;

(b) shall specify the powers, functions and duties of the employees of the society;

(c) may conduct, defend, compound or abandon any suit or legal proceeding instituted by or against the society or otherwise concerning the affairs of the society and also allow in consultation with the President or Chairperson, reasonable time for payment or satisfaction of any claims or demand by or against the society;

(d) may subject to the guidelines issued by the committee enter into negotiations and execute contracts;

(e) may delegate any of his powers to any employee.

(6) In respect of primary co-operative societies, the Chief Executive shall send a ¹[copy of the receipt and payment account] ¹duly certified by him every month to the Registrar and the financing bank or credit agency within fifteen days of the next following month. He shall also send a certified copy of the proceedings of the General Meetings and of the committee meetings to the Registrar and financing bank or credit agency within fifteen days from the date of such meetings.] ¹

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

¹**[30. Supersession of committee.-** (1) If, in the opinion of the Registrar,—

1. Section 30 substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) the committee of a co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interests of the society or its members, or is otherwise not functioning properly; or

(b) a co-operative society is not functioning in accordance with the provisions of this Act, the rules or bye-laws or any order or direction issued by the State Government ¹or the Registrar, ¹[including the direction of issued under section 30B]

the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the said committee, and appoint an administrator ²to manage the affairs of the society for such period, not exceeding ²[six months], as may be specified by the Registrar. ³[The Registrar may ⁴[XXX] ⁴for the reasons to be recorded in writing extend the period of such appointment for a further period of six months ³at a time, and in any case such extension shall not extend one year in aggregate.] ³

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

4. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) The administrator so appointed shall, subject to the control of the Registrar and such instructions as he may give from time to time, exercise all or any of the functions of the committee or of any ¹[office bearer] ¹of the co-operative society and take such action as he may consider necessary in the interest of the society.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(3) The administrator shall, before the expiry of his term of office arrange for the constitution of a new committee after holding the election in accordance with this Act, the rules and the bye-laws of the co-operative society:

¹[Provided that in such an election, no member of the Committee removed under sub-section (1) shall, notwithstanding anything contained in this Act, the rule or the bye-laws, be eligible for being elected as a member of the Committee, for a period of four years from the date of supersession of the Committee under said sub-section]

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[Provisos x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

(4) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult the financing banks to which it is indebted.

(5) Notwithstanding anything contained in this Act, the Registrar shall, in the case of a co-operative bank, if so required in writing by the Reserve Bank of India, in public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the co-operative bank, by order in writing, remove the committee of that co-operative bank and appoint an administrator to manage the affairs of the co-operative bank for such period ¹[x x x]¹ as may, from time to time, be specified by the Reserve Bank of India.]

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[30A. x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹**[30B. Powers to give direction in public interest.-** (1) Where the State Government is satisfied that in public interest and for the purposes of securing proper implementation of co-operative and other development programmes approved or undertaken by the State Government or for specially safeguarding the interest of the members belonging to the Scheduled Castes, Scheduled Tribes and other Backward Classes and ensuring reservation to persons belonging to such Castes, Tribes or Classes in the services under the Co-operative Societies, it is necessary to issue directions to any class of Co-operative Societies generally or to any Co-operative Society or Co-operative Societies in particular, it may issue directions from time to time and all such Co-operative Societies or the Co-operative Society concerned shall be bound to comply with such directions.

(2) The State Government may modify or cancel any directions issued under sub-section (1) and in modifying or cancelling such directions may impose such conditions as it may deem fit.

(3) The State Government may by notification, delegate its powers under this section to the Registrar subject to such restrictions and conditions as may be specified in the notification.¹

¹ Section 30B Omitted by Act 25 of 1998 and inserted by Act 13 of 2000 w.e.f. 26.02.2000.

¹**[31. Appointment of Special Officer² [by the Registrar]².-** (1) Where the Registrar is of the opinion that a co-operative society is not functioning in accordance with the provisions of the Act, rules or bye-laws on account of the number of members of the Committee falling short of the required number to form a quorum due to disqualification, resignation or death or removal of a member or for any other reason, the Registrar may, notwithstanding anything contained in this Act, rules or bye-laws, by order appoint a Special Officer for such co-operative society, for such period not exceeding six months.² [The Registrar may³[XXX]³ for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time and in any case such extension shall not exceed one year in the aggregate]²

1. Section 31 Omitted by Act 19 of 1976 w.e.f. 20.01.1976 and Sections 31 and 31A inserted by Act 25 to 1998 w.e.f. 15.08.1998.

2. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

3. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) Before making an order under sub-section (1), it shall not be necessary for the Registrar to give any co-operative society or person likely to be affected by such order, an opportunity to state its or his objection, if any.

(3) On the issue of the order under sub-section (1),—

(a) the members of the committee of the co-operative society, if any, shall vacate and shall be deemed to have vacated their offices; and

(b) the Special Officer shall be deemed to have assumed charge of the affairs of the co-operative society.

(4) The Special Officer shall, subject to the control of the Registrar, exercise and perform all the powers and functions of the committee of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required in the interest of the co-operative society.

(5) The Special Officer shall, before the expiry of his term, arrange for constitution of a new committee for the co-operative society in accordance with its bye-laws.

31A. Delivery of possession of records and properties of the co-operative societies.- (1) Where a new committee is elected or an Administrator or Special Officer is appointed by the Registrar or where the co-operative society is ordered to be wound up and a liquidator is appointed under this Act, and such new Committee, Administrator or Special Officer or Liquidator is resisted in, or prevented from obtaining possession of the books, accounts, documents, securities, cash and other properties, whether movable or immovable of the co-operative society (hereinafter in this section referred to as the records and properties of the society) by the previous committee or superseded committee or by the committee of the society which has been ordered to be taken over or to be wound up, or a person who is not entitled to be in possession of the records and properties of the society, the Registrar may, on application by the new committee or Administrator or Special Officer or Liquidator, if satisfied, authorize in the prescribed form setting forth the reasons therefore any officer subordinate to him not below the rank of a Senior Inspector of co-operative societies, to enter, search or break open any premises or place where such records and properties of the co-operative societies are kept and to seize any such records and properties of the co-operative society and to cause them to be delivered to the new committee, Administrator or Special Officer or Liquidator.

(2) For the purpose of the proceedings under sub-section (1), the authorization aforesaid shall be conclusive evidence that the records and properties to which it relates belong to the co-operative society.

(3) The provisions of sections 100, 101 and 102 of the Code of Criminal Procedure, 1973 relating to searches and seizures shall *mutatis mutandis* apply to searches and seizures under this section.

(4) The provision of sub-sections (1), (2) and (3) shall *mutatis mutandis* apply, if necessary records and properties of a co-operative society are not made available for purpose of inspection, inquiry or audit under this Act or for taking charge of office by the Chief Executive or any other employee.]³

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES.

32. First charge of co-operative society on certain assets.- (1) Notwithstanding anything contained in any law for the time being in force, but

subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(2) No person shall transfer any property, which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the ¹[Karnataka Land Improvement Loans Act, 1963 or the Karnataka Agriculturists Loans Act, 1963]¹, after the grant of the loan by the society.

¹. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

33. Charge on land, owned by members or held as tenants by members borrowing loans from certain co-operative societies.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force,—

(i) any person who makes an application to a co-operative society of which he is a member for a loan shall, if he owns any land, or holds any land as a tenant make a declaration in the prescribed form. Such declaration shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to the member as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

(ii) a declaration made under clause (i) may be varied at any time by a member with the consent of the co-operative society in favour of which such charge is created;

(iii) no member shall alienate the whole or any part of the land or any interest of his in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society;

¹[Provided further that it shall be lawful for a member to mortgage such lands or any part thereof in favour of the State Government or an ²[Agricultural and Rural Development Bank]²]:

Provided also that if a part of the amount borrowed by a member is paid, the co-operative society with the approval of the financing bank to which it may be indebted may, on an application from the member, release from the charge created by the declaration made under clause (i) or varied under clause (ii), such part of the land or of the interest in the land specified in the declaration as it may deem proper, with due regard to the security for the balance of the amount of loan outstanding from the member.]¹

1. Provisos inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(iv) any alienation made in contravention of the provisions of clause (iii) shall be void;

(v) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue and the prior claims of any person in whose favour alienation of the land or interest in such land has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on the land or interest in the land specified in the declaration made under clause (i) or varied under clause (ii) for and to the extent of the dues owing by him on account of the loan.

(2) Notwithstanding anything contained in ¹[the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964)]¹, -

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

(i) the record of rights maintained under the said Act shall also include the particulars of every charge on land or interest in land created under sub-section (1);

(ii) the co-operative society in whose favour a charge is created under sub-section (1) shall communicate the particulars of the charge, and when the loan is discharged, the cessation of the charge, to the Deputy Commissioner or the

prescribed officer and he shall cause necessary entries to be made in the record of rights;

(iii) the State Government may, by notification in the official Gazette, make rules to carry out the purposes of clauses (i) and (ii).

Explanation.—For the purpose of this section,—

(1) 'land' shall mean land to which ¹[the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964)]¹, is applicable; and

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

(2) 'co-operative society' shall mean a co-operative society of which majority of the members are agriculturists and which is,—

(a) a credit society the primary object of which is to obtain credit for its members; or

(b) any other class of society specified in this behalf by the State Government by general or special order.

34. Deduction from salary to meet society's claim in certain cases.— (1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such an agreement the employer shall, if so required by the co-operative society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within fourteen days from the date of the deduction.

(3) Nothing contained in this section shall apply to persons employed in railways as defined in Article 366 of the Constitution, mines and oil fields.

35. Charge and set off in respect of shares or interest of members in the capital of a co-operative society.— A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set off any sum credited or payable to a member towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

36. Shares or interest not liable to attachment.- Subject to the provisions of section 35 the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

37. Exemption from certain taxes, duties and fees.- The State Government, if in its opinion it is necessary in public interest so to do, may, by notification in the official Gazette, and subject to such restrictions and conditions as may be specified in such notification, reduce or exempt in respect of any class of co-operative societies,—

(a) the tax payable under the ¹[Karnataka]¹ Agricultural Income-tax Act, 1957 (¹[Karnataka Act]¹ 22 of 1957) for the time being in force;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

¹[(b) the tax payable under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957);]

1. Omitted by Act 16 of 1967 w.e.f. 01.01.1968 and inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(c) the duties with which any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such society, or any class of such instruments or in respect of any award or order made under this Act, are chargeable under the ¹[Karnataka]¹ Stamp Act, 1957 (¹[Karnataka Act]¹ 34 of 1957) for the time being in force;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(d) the fees payable in respect of any document under the ¹[Karnataka]¹ Court-Fees and Suits Valuation Act, 1958 (¹[Karnataka Act]¹ 16 of 1958) for the time being in force;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(e) any fee payable under the Indian Registration Act, 1908 (Central Act XVI of 1908) for the time being in force.

38. Exemption from compulsory registration of instruments.- Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act XVI of 1908), shall apply to,—

(a) any instrument relating to shares in a co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property;

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or

(c) any endorsement upon or transfer of any other debenture issued by any such society.

¹[Provided that the exemption from compulsory registration of instrument shall not apply to instruments which is intended to transfer or in effect transfers the right title or interest in immovable property executed by or in favour of House Building Co-operative Societies, registered under this Act.]¹

1. Inserted by Act 6 of 2001 w.e.f. 01.04.2001.

39. Registration of documents executed on behalf of co-operative societies.- (1) Notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act XVI of 1908), it shall not be necessary for any member of a committee, ¹[Chief Executive]¹ or other ¹[office bearer of a co-operative society]¹ or any officer of the Department of Co-operation to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity on behalf of a co-operative society or to sign as provided in section 58 of that Act.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such member, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

¹[CHAPTER V-A

ELECTION OF MEMBERS OF THE COMMITTEES OF CO-OPERATIVE SOCIETIES

39A. Conduct of elections.- (1) Every general election of members of the Committee other than the members of the first committee of a co-operative society

after its registration or any casual vacancy shall be held subject to the superintendence, direction and control of the Registrar.

1. Chapter V-A & sections 39A to 39K inserted by Act 25 of 1998 w.e.f. 15.08.1998 except that sub-section (3) of section 39A is brought into force w.e.f. 27.10.1998.

(2) Every general election of members of the committee shall be held within fifteen days before the date of expiry of the term of office of the committee. The date of such general election shall be fixed by the committee or in the absence of the committee by the Administrator or Special Officer.

(3) Subject to the provisions of the Act, the election of members of the committee shall be held by secret ballot, in accordance with such rules as may be prescribed.

¹[(4) Where due to scarcity, drought, flood, fire or any other natural calamities or rainy season or any election programme of the State Legislative Assembly or Council or Parliament or Local Authority co-inciding with the election programme of any society or class of societies, or in public interest the elections are to be postponed, the State Government may, notwithstanding anything contained in this Act, or rule or bye-laws, by general or special order postpone the election of any society or class of societies for a period not exceeding six months at a time and in any case not exceeding two years in aggregate]¹

1. Subsection (4) inserted by Act 24 of 2001 w.e.f. 05.09.2001.

39B. Cost of conducting elections.- The expenses of holding any election, including the payment of traveling allowances, dearness allowances and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election shall be borne by the co-operative society concerned.

39C. Corrupt practices.- The following shall be deemed to be corrupt practices for the purposes of this Act, namely:—

(i) 'Bribery' as defined in clause (1) of section 123 of the Representation of the Peoples Act, 1951 (Central Act 43 of 1951), for the time being in force;

(ii) undue influence as defined in clause (2) of the above section for the time being in force;

(iii) the appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;

(iv) the promotion of, or attempt to promote, feeling of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate or for prejudicially affecting the election of any candidate;

(v) the publication by a candidate or his agent or by any other person, with the consent of candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidature, being a statement reasonably calculated, to prejudice the prospects of that candidates election;

(vi) the hiring or procuring whether on payment or otherwise, any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

Provided that the use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purposes of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purposes of road transport, whether propelled by mechanical power or otherwise whether used for the drawing of other vehicles or otherwise;

(vii) the holding of any meeting at which intoxicating liquors are served;

(viii) the issuing of any circular, placard or poster having reference to the election which does not bear the name and address of the printer and publisher thereof:

(ix) any other practice which the State Government may by rule specify to be a corrupt practice.

39D. Maintenance of secrecy of voting.— (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

39E. Officers etc. at election not to act for candidates or to influence voting.- (1) No person who is a returning officer, or an assistant returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour,—

- (a) to persuade any person to give his vote at an election; or
- (b) to dissuade any person from giving his vote at an election; or
- (c) to dissuade any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

39F. Prohibition of canvassing in or near polling station.- (1) No person shall, on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognizable.

39G. Penalty for disorderly conduct in or near polling station.- (1) No person shall on the date or dates on which a poll is taken at any polling station,—

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice such as megaphone or a loud speaker; or

(b) shout or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighborhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of officers and other persons on duty at the polling station.

(2) Any person, who contravenes or willfully aids or abets the contravention of the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

39H. Penalty for misconduct at the polling station.- (1) Any person who during hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer, may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorized in this behalf by such Presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

39I. Breaches of official duty in connection with election.- (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(4) The persons to whom this section applies are the returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nomination or withdrawal of candidature or the recording or counting of votes at an election and the expression "official duty" shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

39J. Removal of ballot papers from polling station to be an offence.- (1) Any person who at any election fraudulently takes or attempts to take a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1) such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to the police officer by the presiding officer or when the search is made by police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

39K. Other offences and penalties.- (1) A person shall be guilty of an electoral offence, if at any election, he,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than ballot paper which he is authorized by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,—

(a) if he is a returning officer, assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty, if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under sub-section (2) shall be cognizable.]²

CHAPTER VI

STATE AID TO CO-OPERATIVE SOCIETIES.

40. Promotion of co-operative movement.- It shall be the duty of the State Government to encourage and promote the co-operative movement including encouragement of co-operative farming in the State and to take such steps in this direction as may be necessary.

41. Direct partnership of State Government in co-operative societies.- (1) The State Government may subscribe directly to the share capital of a co-operative society with limited liability.

(2) Notwithstanding any agreement to the contrary, the State Government shall not be entitled to a dividend on the shares of any such co-operative society at a rate higher than that at which such dividend is payable to any other shareholder of the society.

42. Indirect partnership of State Government in co-operative societies.- The State Government may, subject to appropriation by law, provide moneys to a co-operative society (hereinafter in this Chapter referred to as apex society) for the purchase of shares in other co-operative societies with limited liability.

43. Principal State Partnership Fund.- (1) An apex society which is provided with moneys by the State Government under section 42 shall, with such moneys, establish a Fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilise the 'Principal State Partnership Fund' for the purpose of,—

- (a) directly purchasing shares in other co-operative societies with limited liability;
- (b) providing moneys to a co-operative society (hereinafter in this Chapter referred to as central society) to enable that society to purchase shares in other co-operative societies with limited liability (hereinafter in this Chapter referred to as primary societies);
- (c) making payments to the State Government in accordance with the provisions of this Chapter;

and for no other purpose.

44. Subsidiary State Partnership Fund.- (1) A central society which is provided with moneys by an apex society from the 'Principal State Partnership Fund' shall, with such moneys, establish a Fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilise the 'Subsidiary State Partnership Fund' for the purpose of,—

- (a) purchasing shares in primary societies;
- (b) making payments to the apex society in accordance with the provisions of this Chapter;

and for no other purpose.

45. Approval of State Government for purchase of shares.- No shares shall be purchased in a co-operative society from the moneys in the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund,' except with the previous approval in writing of the State Government.

46. Liability to be limited in respect of certain shares.- Where any shares are purchased in a co-operative society by,—

- (a) the State Government; or
- (b) an apex society or a central society from the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund' as the case may be,

the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the amount paid in respect of such shares.

47. Restriction on amount of dividend.- An apex society which has purchased shares in other co-operative societies from the moneys in the 'Principal State Partnership Fund' and a central society which has purchased shares in the primary societies from the moneys in the 'Subsidiary State Partnership Fund' shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.

48. Indemnity of apex and central societies.- (1) If a co-operative society in which shares are purchased from the 'Principal State Partnership Fund', is wound up or dissolved, the State Government shall not have any claim against the apex society which purchased the shares, in respect of any loss arising from such purchase; but the State Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) If a co-operative society in which shares are purchased from the 'Subsidiary State Partnership Fund' is wound up or is dissolved, neither the State Government nor the apex society shall have any claim against the central society which purchased the shares, in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the 'Principal State Partnership Fund'.

49. Disposal of share capital and dividend, etc.- (1) All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the 'Principal State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the 'Subsidiary State Partnership Fund' on redemption of such shares or by way of dividend or otherwise, shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the 'Principal State Partnership Fund'.

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the share stands in the name of the apex society or the central society, as the case may be, be paid to the State Government.

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 42.

50. Disposal of 'Principal State Partnership Fund' and 'Subsidiary State Partnership Fund' on winding up of an apex or a central society.- (1) If an apex

society which has established a 'Principal State Partnership Fund' is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the State Government.

(2) If a central society which has established a 'Subsidiary State Partnership Fund' is wound up or is dissolved all moneys, to the credit of, or payable to, that Fund shall be paid and credited to the 'Principal State Partnership Fund' from which it received moneys under clause (b) of sub-section (2) of section 43.

51. Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.- Any amount to the credit of a 'Principal State Partnership Fund' or a 'Subsidiary State Partnership Fund' shall not form part of the assets of the apex society or the central society, as the case may be.

52. Agreement by State Government and apex societies.- Subject to the foregoing provisions of this Chapter,—

(a) the State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 44;

(b) an apex society may, with the previous approval of the State Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the 'Principal State Partnership Fund' for the purpose specified in clause (b) of sub-section (2) of section 43.

53. Other forms of State aid to co-operative societies.- Notwithstanding anything contained in any law for the time being in force, the State Government may,—

(a) give loans or make advances to co-operative societies;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;

(c) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the State Government;

(d) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and

(e) give financial assistance in any other form, including subsidies, to any co-operative society.

¹**[53A. Nomination of members of committee by State Government in certain cases.-** (1) Notwithstanding anything contained in section 29, where the

State Government has subscribed to the share capital of a Co-operative Society to extent of not less than,-

- (i) fifty percent of the total share capital; or
- (ii) five lakhs of rupees,

the State Government shall have the right to nominate as its representatives one third of the total number of members of the committee of the Co-operative Society.

(2) A person nominated as a member of a committee of a Co-operative Society under sub-section (1) (hereinafter in this section referred to as nominated member) shall hold office as such member during the pleasure of the State Government.

(3) Subject to the provisions of sub-section (2), a nominated member shall hold office as such member for such period as the State Government may, by order specify.

(4) Where an Officer of the State Government is nominated as member of a committee under sub-section (1) such Officer may be nominated by virtue of his office, and when any such nomination is made, such officer may if unable to be present himself at any meeting of the committee depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be the person nominated as a representative of the State Government for purposes of such meeting.

(5) Notwithstanding anything contained in this Act, a person so nominated under this section shall not have right to vote in any meeting of a Co-operative Society convened for the purposes of election of office bearers under section 29F nor he shall have right to become an office bearer of the Society.]

1. Section 53A Omitted by Act 25 of 1998 and inserted by Act 13 of 2000 w.e.f. 26.02.2000.

54. Control of society assisted.- Where State aid amounting to not less than two lakhs of rupees is given to any co-operative society, the State Government, if it is satisfied that it is necessary in public interest so to do, may by notification in the official Gazette take power to exercise such control over the conduct of business of such society as shall suffice in the opinion of the State Government to safeguard the interests of the State.

55. Provisions of this Chapter to override other laws.- The provisions of sections 42 to 54 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law for the time being in force.

CHAPTER VII.

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES.

56. Funds not to be divided.- No part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members:

Provided that a member may be paid such remuneration, allowances or honoraria on such scale as may be laid down by the bye-laws for any services rendered by him to the co-operative society.

¹[Provided further that no member shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the committees or for performing any other functions as member at a rate higher than the maximum rate prescribed for the purpose, and different rates may be prescribed for different classes of co-operative societies or for different purposes.]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

57. Net profits and their disposal.- (1) The net profits of co-operative societies shall be determined in accordance with such rules as may be prescribed and different rules may be made for different classes of co-operative societies.

(2) A co-operative society shall, out of its net profit in any year transfer an amount not being less than twenty-five per cent of the profits to the reserve fund.

¹[(2A) A Co-operative Society shall, from out of the balance of its net profits, contribute two percent to the Co-operative Education Fund to be administered by the Karnataka State Co-operative Federation Limited, Bangalore.

(2B) No Co-operative Society which has failed to contribute to the Co-operative Education Fund shall pay dividend to its members.]¹

1. Sub-sections (2A) & (2B) inserted by Act 40 of 1964 w.e.f. 26.06.1965 and substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 13 of 2004 w.e.f. 22.03.2004.

(3) The balance of the net profits may ¹[x x x]¹ be utilised for all or any of the following purposes, namely:—

- ²[(a) x x x
(b) x x x]²

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Omitted by Act 40 of 1964 w.e.f. 26.06.1965.

(c) payment of bonus to members on the amount or volume of business done by them with the society to the extent and in the manner specified in the bye-laws:

Provided that no bonus shall be payable to members in a credit society;

(d) constitution of, or contributions to, such special funds as may be specified in the bye-laws;

(e) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in section 2 of Charitable Endowments Act, 1890 (Central Act VI of 1890); and

(f) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws:

Provided that the bonus payable in any year to any employee shall not exceed two months' pay.

¹[(4) A co-operative society may pay dividend to its members from out of the balance of net profits available after making deductions as provided for under sub-sections (2), (2A) and (3) and the bye-laws of the society.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

58. Investment of funds.- A co-operative society may invest or deposit its funds,—

(a) in a Government Savings Bank; or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882); or

(c) in the shares or securities of any other co-operative society; or

¹[(d) with any Co-operative Bank; or

(e) with any Scheduled Bank approved by the Registrar:

Provided that no such approval shall be necessary for opening a current account in any Scheduled Bank by a Co-operative Bank for its regular business transaction.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

59. Restrictions on borrowings.- ¹[(1)]¹ A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

1. Renumbered by Act 2 of 1975 w.e.f. 17.07.1975.

¹[(2) Notwithstanding anything contained in sub-section (1), such co-operative societies or class of co-operative societies as the Registrar may, by general or special order, specify, shall have power to borrow from a credit agency subject to such conditions as may be specified in such order]¹

1. Inserted by Act 2 of 1975 w.e.f. 17.07.1975 and substituted by Act 13 of 2004 w.e.f. 22.03.2004.

60. Restrictions on loans.- (1) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, a co-operative society may make loans to another co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor on the security of his deposit.

61. Restrictions on other transactions with non-members.- Save as is provided in sections 59 and 60, the transactions of a co-operative society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

62. Provident Fund.- (1) A co-operative society may establish a contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and society in accordance with the bye-laws of the society.

(2) A contributory Provident Fund established by a co-operative society under sub-section (1),—

(a) shall not be used in the business of the society;

(b) shall not form part of the assets of the society; and

(c) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE.

63. Audit.- ¹[(1) The Director of Co-operative Audit shall audit or cause to be audited by a person authorized by him by general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year]

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, a valuation of the assets and liabilities, and an examination of the working and the other prescribed particulars of the society.

(3) The ¹[Director of Co-operative Audit] ^{1 2}[or the authorized person] ² shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any public office at the headquarters of the society or any branch thereof.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the ¹[Director of Co-operative Audit] ²[or the person authorized]² may require.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Inserted by Act 25 of 1998 w.e.f. 15.08.1998 and substituted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[(4A) Every Co-operative Society shall for each co-operative year, prepare and furnish within two months from the end of that year, to the Registrar and the Director of Co-operative Audit, a statement showing the receipts and disbursements, profit and loss and the balance sheet for the year and such other statements and returns as the Registrar or the Director of Co-operative Audit may direct.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(5) The Director of Co-operative Audit ²[xxx]² shall send copies of the audit report and communicate the results of audit to the co-operative society, the Registrar and to the financing bank or credit agency, and if the society is affiliated to any other co-operative society, to such co-operative society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Omitted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[(6) The Director of Co-operative Audit or any officer authorized by him shall have right to receive all notices and every communication relating to the annual general meeting of a co-operative society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.

1. Sub-sections (6) to (11) substituted for sub-section (6) by Act 25 of 1998 w.e.f. 15.08.1998.

(7) If the result of the audit held under sub-section (1) discloses any defects in the working of society, the society shall within six months from the date of the audit report explain to the Director of Co-operative Audit and to the Registrar the defects or the irregularities pointed out in audit, and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein.

(8) (a) Any society aggrieved by any item held under objection in the audit report may apply to the Director of Co-operative Audit for its deletion within six months of the receipt of the audit report.

(b) The Director of Co-operative Audit may on receipt of the application under clause (a) summon the production of documents, if any, pertaining to the objection and examine the same. He may also examine any person including the auditor and order for deletion or confirmation of the audit objection and on deletion, the objection shall stand removed from the balance sheet of the society and on confirmation the amount held under objection shall be recoverable.

(9) The Registrar shall submit half yearly reports to the State Government furnishing details of the number of defects disclosed in audit, number of defects rectified, action taken to remedy the defects and the reasons for pendency, if any. A copy of such report may be forwarded to the Director of Co-operative Audit.

(10) If it appears to the State Government on an application by a co-operative society or otherwise that it is necessary or expedient to re-audit any account of a society, the State Government may, by an order provide for such re-audit and the provisions of the Act and the rules applicable to the audit shall apply to such re-audit:

¹[Proviso xxx]¹

1. Omitted by Act 24 of 2001 w.e.f. 05.09.2001.

Provided also that such re-audit shall be ordered only when there is a *prima-facie* case of fraud or mis-appropriation or embezzlement of funds not detected or properly examined by the auditor during regular audit or misclassification of accounts or for any other valid reasons with a view to truly reflect the financial position of the society;

(11) Notwithstanding anything contained in the preceding sub-sections, the Director of Co-operative Audit shall have power to re-examine or re-verify the audited accounts of any co-operative society pertaining to any year and incorporate the lapses observed during such re-examination or re-verification in the next audit report to be issued.]¹

64. Inquiry by Registrar.- (1) The Registrar may, of his own motion, by himself or by a person authorized by him, by order in writing, hold an inquiry into ¹[any matter specified in the order touching] ¹the constitution, working and financial condition of a co-operative society.

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of,—

- (a) a co-operative society to which the society concerned is affiliated;
- (b) a majority of the members of the committee of the society; or

(c) not less than one-third of the total number of members of the society.

¹[(2A) An inquiry under sub-section (1) shall be completed ²[within a period of twelve months which may however be extended ³[by the Registrar for the reasons to be recorded in writing]³ for a further period of six months]²¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

3. Substituted by Act 13 of 2004 w.e.f. 22.03.2004.

(3) The Registrar, or the person authorized by him under sub-section (1) shall, for the purposes of an inquiry under this section have the following powers, namely:—

(a) he shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office at the headquarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe has knowledge of any of the affairs of society, to appear before him at any public office at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c)(i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the ¹[office bearers] ¹of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the ¹[office bearers] ¹of the society refuse or fail to call such a meeting he shall have power to call it himself;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(ii) any meeting called under clause (i) shall have the powers of the general meeting called under the bye-laws of the society and its proceeding shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated ¹[and also to the Director of Co-operative Audit] ¹.

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

65. Inspection of books of a co-operative society.- (1) The Registrar may of his own motion, or on the application of a creditor of a co-operative society, inspect or direct any person authorized by him by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate ¹ [the result of any such inspection to the Director of Co-operative Audit and] ¹,—

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(a) where the inspection is made of his own motion to the society; and

(b) where the inspection is made on the application of a creditor, to the creditor and the society.

¹**[65A. Report of ² [inquiry] ², inspection and final report to be made available to a credit agency.-** The Registrar shall draw the attention of a credit agency financing a co-operative society to ² [the defects noticed in any inquiry] ² or inspection of such co-operative society and shall also supply a copy of each of ² [such inquiry or inspection report] ², if demanded in writing by such credit agency.

1. Sections 65A and 65B inserted by Act 2 of 1975 w.e.f. 17.07.1975.

2. Substituted by Act 3 of 1980 w.e.f. 11.08.1977.

¹**[Explanation.—**For the purpose of this section and section 65B credit agency includes a financing Bank.] ¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

65B. Inspection of books of co-operative society by a credit agency.- (1) A credit agency shall have the right to inspect the books of any co-operative society which has either applied to the credit agency for financial assistance or is indebted to it.

(2) The inspection may be made either by an officer of the credit agency or a member of its paid staff authorized by the credit agency as competent to undertake such inspection.

(3) The officer or member so inspecting shall, at all reasonable times, have free access to the books, account, document, securities, cash and other properties belonging to or in the custody of the co-operative society and may also call for such information, statements and returns as may be necessary to ascertain the financial conditions of the co-operative society, and to ensure security of the sums lent to it by the credit agency;]

66. Power to seize books and property.- If any officer or person conducting audit under section 63, inquiry under section 64 or inspection under section 65, has reason to believe that any books or other property of the society have been tampered with or are likely to be tampered with, if left with the society with a view to eliminate or efface or change or manipulate any evidence which may be deemed necessary by such officer or person in connection with the proof of any defect or irregularities noticed by him during the course of audit, inquiry or inspection, he shall have power to seize and impound such books or property in such manner and for such period as may be prescribed.

67. Costs of Inquiry.- Where an inquiry is held under section 64 or an inspection is made under section 65 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs, as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society, the members or creditor demanding an inquiry or inspection, and the [office bearers] or former [office bearers] of the society:

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

Provided that,—

(a) no order of apportionment of the costs shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

68. Order by the Registrar.- ²[(1)]² The Registrar may make an order directing the co-operative society or its [office bearers] to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit under section 63 or the inquiry under section 64 or inspection under section 65 ³[and 65B]³.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Renumbered by Act 25 of 1998 w.e.f. 15.08.1998.

3. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2) A report about rectification of defects by the co-operative society shall be sent by the committee of such society periodically till all such defects are rectified to the Registrar, the credit agency and the financial Bank, and where the defects were pointed out in the audit, to the Director of Co-operative Audit.

(3) When the Registrar makes an order under sub-section (1) to remedy the defects disclosed in the inquiry or inspection, he shall send a copy of the order alongwith the result of the inquiry or inspection as the case may be, to the Director of Co-operative Audit who shall take action for incorporation of such results in the next audit report and financial statements wherever necessary.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[**Explanation:** x x x]¹

1. Omitted by Act 19 of 1976 w.e.f. 20.01.1976.

¹**[69. Surcharge.-** (1) If in the course of an audit, inquiry, inspection or the winding up of a Co-operative society, it is found that the Committee of Management of such society or the President, Vice-President, the Chairman, Vice-Chairman or any other member of the Committee of Management ²[including Government nominees and ex-officio members]² or any person who is or was entrusted with the organization or management of such co-operative society or who is or has at any time been an officer or an employee of a co-operative society has made any payment contrary to the Act, the rules or the bye-laws or has caused any deficiency in the assets of the co-operative society by breach of trust or ³[x x x]³ negligence or has misappropriated or fraudulently retained any money or other property belonging to such Co-operative society, the Registrar may, of his own motion or on an application of the Committee, Liquidator or any creditor, frame charges against such person or persons and after giving such person and in the case of a deceased person, to his representative who inherits his estate, an opportunity of making representation, make an order requiring him to pay or restore the money or property or any part thereof with interest at such rate as he may determine or to contribute such sum to the assets of the co-operative society by way of compensation to such extent as he may consider just and equitable.

(2) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally liable.]¹

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

3. Omitted by Act 71 of 1976 w.e.f. 03.11.1976.

¹[(3) The order made by the Registrar under sub-section (1) may also provide for recovery of cost of surcharge proceeding from the person against whom the order is made at such rate and in such manner as may be prescribed.]¹

1. Inserted by Act 25 of 1998 w.e.f. 27.10.1998.

CHAPTER IX

SETTLEMENT OF DISPUTES

70. Disputes which may be referred to Registrar for decision.- (1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises,—

- (a) among members, past members and persons claiming through members, past members and deceased members, or
- (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society, or
- (c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or
- (d) between¹ the society and any other co-operative society,¹ [or a credit agency]

1. Inserted by Act 2 of 1975 w.e.f. 17.07.1975.

such dispute shall be referred to the Registrar for decision and ¹[no civil or labour or revenue court or Industrial Tribunal]¹ shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

1. Substituted by Act 2 of 2000 w.e.f. 20.06.2000 by notification. Text of the notification is at end of the Act.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely:—

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it

from the principal debtor, as a result of the default of the principal debtor whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of a President, Vice-president, Chairman, Vice-chairman, Secretary, Treasurer or Member of Committee of the society.

¹[(d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society ²[notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947)]²;

(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its committee, past or present whether such loss be admitted or not.]¹

1. Clauses (d) and (e) inserted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Inserted by Act 2 of 2000 w.e.f. 20.06.2000.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

¹**[70A. Period of limitation.-** (1) No dispute under section 70 shall be entertained unless it is referred to the Registrar within six years from the date of the cause of action:

Provided that a dispute relating to the election of a member, President, Vice-President, Managing Director, Honorary Secretary or other officer of the Committee shall be referred to the Registrar within thirty days from the date of declaration of the result of the election.

(2) Notwithstanding anything contained in sub-section (1), the Registrar may entertain a dispute referred after the period specified in sub-section (1) if he is satisfied that the person making the reference had sufficient cause for not making the reference within that period.]¹

1. Inserted by Act 39 of 1975 w.e.f. 01.06.1960.

71. Disposal of disputes.- (1) The Registrar may, on receipt of the reference of a dispute under section 70,—

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf, or
- (c) refer it for disposal to one arbitrator appointed by the Registrar.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interests of justice.

¹[(3A) When a dispute is referred to an arbitrator under clause (c) of sub-section (1), the award shall, subject to such rules as may be prescribed, include the fee payable to the arbitrator and the fees and expenses payable to the Registrar. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal or revision, be binding on the parties to the dispute.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(4) Notwithstanding anything contained in section 70, when any dispute under clause (a) or (b) of sub-section (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by the society concerned that in the interest of the society it is necessary for an effective decision of the dispute to implead persons who cannot be made parties to the dispute in proceedings before him, he may permit the society to institute a regular suit in a Civil Court having jurisdiction and the Civil Court shall be competent to entertain such suit.

¹**[71A. Powers of financing bank to proceed against members of a co-operative society for the recovery of money due to it from such society.-** (1) If a co-operative society is unable to pay its debts to a financing bank by reason of its members committing default in the payment of moneys due by them, the financing bank may direct the committee of such co-operative society to take proceedings against such members under section 70 or to initiate proceedings under section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank itself may proceed against such members under section 70 or section 101, as the case may be, in which case, the provisions of this Act, the rules or the bye-laws shall apply as

if all references to the co-operative society or its committee in the said provisions were references to the financing bank.

(2) Where a financing bank has obtained a decree or decision against a co-operative society in respect of money due to it from the co-operative society, the financing bank may proceed to recover such moneys, first, from the assets of the co-operative society and, secondly, from the members of such co-operative society to the extent of their debts to the society.¹

¹ 1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

¹ **[71B. Powers of credit agency to proceed against members of a co-operative society for the recovery of money due to it from such society.-** (1) If a co-operative society is unable to pay its debts to a credit agency by reason of its members committing default in the payment of the moneys due by them, the credit agency may direct the committee of such co-operative society to take proceedings against such member under section 70 or initiate proceedings under section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction the credit agency may itself proceed against such defaulting members under section 70 or section 101, as the case may be, in which case, the provisions of the Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions, were reference to the credit agency.

(2) Where a credit agency has obtained a decree or award against a co-operative society in respect of money due to it from the co-operative society the credit agency may proceed to recover such moneys firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society.¹

¹ 1. Inserted by Act 2 of 1975 w.e.f. 17.07.1975.

CHAPTER X

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES.

72. Winding up of co-operative societies.- (1) If the Registrar after an inquiry has been held under section 64 or an inspection has been made under section 65 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

(2) The Registrar may, of his own motion, make an order directing the winding up of a co-operative society,—

¹[(a) where the number of members of the society has been reduced to less than the minimum number required for registration of the co-operative society; or]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(b) where the co-operative society has not commenced working or has ceased to work; ¹[or]¹

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

¹[(c) where the co-operative society has ceased to comply with the conditions imposed by or under this Act regarding registration and management.]¹

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

(3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

¹[(4) Notwithstanding anything contained in this section, no co-operative bank shall be wound up ²[or an order for winding up shall be cancelled]² except with the previous sanction in writing of the Reserve Bank.]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹**[72A. Winding up of a co-operative bank if so, required by the Reserve Bank.-** Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961).

72B. Reimbursement to the Deposit Insurance Corporation by the Liquidators.- Where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961, is wound up or taken into liquidation and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of the Deposit Insurance Corporation Act, 1961.]¹

1. Sections 72A and 72B inserted by Act 39 of 1975 w.e.f. 23.09.1975.

73. Liquidator.- (1) Where the Registrar has made an order under section 72 for the winding up of a co-operative society, he may appoint a Liquidator for the purpose and fix his remuneration.

(2) A Liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to such property, effects and claims.

(3) Where an appeal is preferred under section 106, an order of winding up of a co-operative society made under section 72 shall not operate thereafter until the order is confirmed in appeal:

Provided that the Liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a co-operative society is set-aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

74. Powers of Liquidator.- (1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society in respect of which an order for winding up has been made, shall vest in the Liquidator appointed under section 73 from the date on which the order takes effect and the Liquidator shall have power to realise such assets by sale or otherwise.

(2) Such Liquidator shall also have power, subject to the control of the Registrar,—

(a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;

(b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any ¹[office bearers] ¹or former ¹[office bearers] ¹, to the assets of the society;

¹ Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(c) to investigate all claims against the co-operative society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and

(j) to compromise all calls or liabilities to call and debts and liabilities capable of resulting in debts and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a co-operative society have been wound up, the Liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

75. Cancellation of registration of a co-operative society.- Where in respect of a co-operative society which has been ordered to be wound up under section 72, no Liquidator has been appointed under section 73 after two months from the date of such order, or if an appeal has been filed, from the date of confirmation of the order in appeal, or where the affairs of a co-operative society in respect of which a Liquidator has been appointed under section 73, have been wound up, the Registrar shall make an order canceling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

CHAPTER XI

¹ ² [[AGRICULTURE AND RURAL]² DEVELOPMENT BANKS]¹.

76. Definitions.- In this Chapter,—

(a) 'Board' means the Board of Directors of the ² [State Agriculture and Rural Development Bank]²;

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) '¹[Agriculture and Rural Development Bank]¹', means a Co-operative ¹[Agriculture and Rural Development Bank]¹ registered or deemed to be registered under this Act and admitted as a member of the ¹[State Agriculture and Rural Development Bank]^{1 2} [and includes such class or classes of co-operative societies as may be notified by the Registrar and admitted as members of the ¹[State Agriculture and Rural Development Bank]^{1 2}];

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

(c) '¹[State Agriculture and Rural Development Bank]¹', means the ²[Karnataka]² Central Co-operative ¹[Agriculture and Rural Development Bank]¹, Limited;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(d) 'Trustee' means the Trustee referred to in section 77,

^{1 2}[**76A. Application of Chapter to Agriculture and Rural Development Banks.-** This Chapter shall apply to co-operative banks advancing loans, either on the security or mortgage of lands or by hypothecation of the agricultural machinery or other assets, created out of the loan for the purposes as may be notified by the Government in this behalf from time to time.]²

1. Sections 76A & 76B inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

76B. State and other ¹[Agriculture and Rural Development Banks]¹ .- (1) There shall be a ¹[State Agriculture and Rural Development Bank]¹ for the ³[State of Karnataka]³, and as many ²[Agriculture and Rural Development Banks]² as may be deemed necessary.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(2) A reference to Land Mortgage Bank in any law, or instrument, for the time being in force in the State, shall, with effect from the commencement of the ¹[Karnataka]¹ Co-operative Societies (Amendment) Act, 1964, be construed as a reference to a Land Development Bank ¹[upto the date of commencement of the Karnataka Co-operative Societies (Amendment) Act, 1984 and thereafter as Agriculture and Rural Development Bank]¹ within the meaning of this Chapter.

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(3) With effect from the commencement of the ¹[Karnataka]¹ Co-operative Societies (Amendment) Act, 1964 and until such time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of the said Act are changed into Land Development Banks, all acts done by them or mortgages and other documents executed by them, or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.]¹

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

¹[(4) With effect from the date of commencement of the Karnataka Co-operative Societies (Amendment) Act, 1984 and until such time as the names of the Land Mortgage Banks and Land Development Banks functioning in the State at the commencement of the said Act are changed as Agriculture and Rural Development Banks, notwithstanding anything contained in sub-section (3), all acts done by them or mortgages and documents executed by them, or in their favour and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed as the case may be, by or against them as Agriculture and Rural Development Banks.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

77. Appointment of Trustee and his powers and functions.- (1) The Registrar, or where the State Government appoints any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfillment of the obligations of the ¹[State Agriculture and Rural Development Bank]¹ to the holders of debentures issued by the Board.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) The powers and functions of the Trustee shall be governed by the provisions of this Act and by the instrument of trust executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Board and the Trustee.

78. Trustee to be a corporation sole.- The Trustee appointed under section 77 shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in its corporate name shall sue and be sued.

¹**[79. Issue of debentures.-** (1) With the previous sanction of the State Government and the Trustee, and subject to such terms and conditions as the State Government may impose, the ²[State Agriculture and Rural Development Bank]² in

the discharge of its function as a ²[Agriculture and Rural Development Bank]² may issue debentures of such denominations ³[or take loans]³, for such period, and at such rates of interest, as it may deem expedient ⁴[on the security of,—

1. Sections 79 inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

4. Substituted by Act 71 of 1976 w.e.f. 03.11.1976.

(a) mortgage or mortgages ²[or the hypothecation of the agricultural machinery ¹[or on the basis of charges created on the lands of the borrowers under section 33]¹ or other assets created out of the loan]² already held; or

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(aa) Charges already created under section 33 on the land owned by members or on the interest in the land held by such members as tenants;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(b) mortgage or mortgages ¹[or the hypothecation of the agricultural machinery or other assets created out of the loan]¹ to be acquired; or

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(bb) charges to be created under section 33 on the lands owned by members or on the interest in the land held by such members as tenants;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(c) partly on mortgage ¹[or the hypothecation of the agricultural machinery or other assets created out of the loan]¹ held and partly to be acquired; or

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(cc) partly on charges already created and partly on charges to be created under section 33 on the lands owned by members or on the interest in the land held by such members as tenants;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(d) the guarantee of the State Government guaranteeing the full amount of principal and interest on debentures ¹[or loans]¹ until the date of complete discharge of the debentures; or

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(e) partly on mortgages held or to be acquired and partly on the Government guarantee for the principal and interest till the complete discharge of the debentures¹ [or loans]¹; and

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(f) properties and other assets of the¹ [Agriculture and Rural Development Banks.]^{1,4}

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem at any time in advance of the date fixed for debenture not less than three months' notice in writing.

(3) The total amount due on debentures issued¹ [or loans taken]¹ by the² [State Agriculture and Rural Development Bank]², and outstanding at any time, shall not exceed—

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) where debentures are issued¹ [or loans are taken against mortgages or charges on lands or hypothecations of agricultural machinery or other assets created out of loans]¹ held, the aggregate of—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 85 by the Primary¹ [Agriculture and Rural Development Banks]¹ to the¹ [State Agriculture and Rural Development Bank]¹ and subsisting at such time; and

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(iii) the amounts paid under the mortgages aforesaid and the unsecured amounts remaining in the hands of the¹ [State Agriculture and Rural Development Bank]¹ or the Trustee at the time;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) where debentures are issued¹ [or loans are taken]¹ otherwise than on mortgages held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

80. Charge of debenture holders on certain properties.- The holders of the debentures shall have a floating charge on,—

(a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of section 79;

(b) the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee; and

(c) the other properties of the ¹[State Agriculture and Rural Development Bank] ¹.

¹ Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

81. Guarantee by State Government of principal of, and interest on, debentures.- (1) The principal of, and interest on, the debentures issued under section 79 shall, in respect of such maximum amount as may be fixed by the State Government and subject to such conditions as it may think fit to impose, carry the guarantee of the State Government.

(2) The State Government may, subject to any law of the Legislature of the State, increase the maximum amount of any guarantee given under sub-section (1).

(3) The State Government may, after consulting the Board and the Trustee,—

(a) by notification in the official Gazette; and

(b) by notice of not less than fourteen days in such of the principal newspapers in the State and of other States in India as the State Government may select in this behalf;

discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions, subject to which it is given, with effect from a specified date, not being earlier than six months from the date of publication of the notification in the official Gazette:

Provided that the withdrawal, restriction or modification of any guarantee under this sub-section, shall not in any way affect the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

(4) Every notification and notice referred to in sub-section (3) shall, where the maximum amount of the guarantee is to be restricted, or the conditions subject to which the guarantee is given are to be modified, set forth precisely the scope and effect of the restriction or modification, as the case may be.

82. Other guarantees by State Government.- (1) The State Government may by general or special order authorize the grant ¹of loans to members by the ¹[State Agriculture and Rural Development Bank] ¹ or the ¹[Agriculture and Rural

Development Banks]¹ for the development of land in excess of the loans to which such members may be entitled on the basis of the value of the lands determined in accordance with the principles of valuation approved by the State Government such excess not exceeding such limits as may be specified in such order.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) In respect of loans granted in accordance with sub-section (1), the State Government may guarantee for a specified period the repayment of the loan to the extent of the excess granted to the members.

¹**[82A. Powers of Land Development Banks to advance loans and to hold lands.-** Subject to the provisions of this Act and the rules made thereunder, it shall be competent for the ²[Agriculture and Rural Development Banks]² to advance loans for the purposes referred to in section 76A, and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

1. Sections 82A, 82B and 82C inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

82B. Mode of dealing with applications for loans.- (1) When an application for a loan is made for any of the purposes mentioned in section 76A, a public notice shall be given of the application in such manner as may be prescribed calling upon all persons interested to present their objections to the loan, if any, in person, at a time and place fixed therein. The State Government may, from time to time, prescribe the persons by whom such public notice shall be given and the manner in which the objections shall be heard and disposed of.

(2) The prescribed officer shall consider every objection submitted under sub-section (1) and make an order in writing either upholding or overruling it:

Provided that, when the question raised by an objection is in the opinion of the officer one of such a nature that it cannot be satisfactorily decided except by a civil court, he shall postpone the proceedings on the application until the question has been so decided.

(3) A notice under sub-section (1), published in the manner prescribed, shall, for the purpose of this Act be deemed to be proper notice to all persons having or claiming interest in the land to be improved, or offered as security for the loan.

(4) Subject to such rules as may be prescribed, the ¹[Agriculture and Rural Development Banks]¹ shall consider such application after due enquiry for the purpose of making loans under this Chapter.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

82C. Order granting loan conclusive of certain matters.- A written order by the ¹[Agriculture and Rural Development Bank]¹, or persons or committees authorized under the bye-laws of the Bank to make loans for all or any of the purposes specified in ²section 76A, granting, either before or after the commencement of the ²[Karnataka]² Co-operative Societies (Amendment) Act, 1964, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say,—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 76A;

(b) that the person had at the date of the order a right to make such an improvement or incur expenditure for productive purpose, as the case may be; and

(c) that the improvement is one benefiting the land specified and productive purpose ¹concerns the land offered in security, or any part thereof as may be relevant.]

83. Priority of mortgage over certain claims.- ¹[(1)]¹ A mortgage executed in favour of a ²[Agriculture and Rural Development Bank]² shall have priority over any claim of the Government arising from a loan under ³[the Karnataka Land Improvement Loans Act, 1963 (Karnataka Act 16 of 1963) or the Karnataka Agriculturists Loan, Act, 1963 (Karnataka Act 17 of 1963)]³ granted after the execution of the mortgage.

1. Renumbered by Act 39 of 1975 w.e.f. 23.09.1975.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

¹[(2) Notwithstanding anything contained in the Karnataka Land Reforms Act, 1961, where a mortgage in favour of a ²[Agriculture and Rural Development Bank]² is in respect of land in which a tenant purchaser or tenant has an interest, the mortgage may be against the security of such interest and the rights of the mortgagee shall not be affected by the failure of the tenant purchaser or tenant to comply with the requirements of the said Act and the sale of the land and his interest therein under the said Act shall be subject to the prior charge of the ²[Agriculture and Rural Development Bank]².]

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

84. Right of ¹[Agriculture and Rural Development Bank]¹ or of the ¹[State Agriculture and Rural Development Bank]¹ to purchase mortgaged property.-

(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the ¹[State Agriculture and Rural Development Bank]¹ or an ¹[Agriculture and Rural Development Bank]¹ to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Nothing in any law fixing a maximum limit of agricultural holding shall apply to the acquisition of land by an ¹[Agriculture and Rural Development Bank]¹ or the ¹[State Agriculture and Rural Development Bank]¹ under sub-section (1).

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

85. Mortgages executed in favour of ¹[Agriculture and Rural Development Bank]¹ to stand vested in ¹[State Agriculture and Rural Development Bank]¹.-

The mortgages executed in favour of, and all other assets transferred to an ¹[Agriculture and Rural Development Bank]¹ by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such ¹[Agriculture and Rural Development Bank]¹ to the ¹[State Agriculture and Rural Development Bank]¹ and shall vest in the Trustee.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

²**[85A. Registration of mortgage or lease in favour of Land Development Banks.-** Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary to register mortgages or leases executed in favour of the ¹[Agriculture and Rural Development Banks]¹, provided that the ¹[Agriculture and Rural Development Bank]¹ concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immoveable property is mortgaged or leased to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or as the case may be, leased, is situate, and such Registering Officer shall file a copy or copies as the case may be in his Book No. 1 prescribed under section 51 of the Indian Registration Act, 1908.]²

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

86. Power of ¹[Agriculture and Rural Development Bank]¹ to receive moneys and grant discharges.- Notwithstanding that a mortgage executed in favour of an ¹[Agriculture and Rural Development Bank]¹ has been transferred, or is deemed under the provisions of section 85 to have been transferred, to the ¹[State Agriculture and Rural Development Bank]¹,—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the ¹[Agriculture and Rural Development Bank]¹ and such payment shall be as valid as if the mortgage had not been so transferred; and

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) the ¹[Agriculture and Rural Development Bank]¹ shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the ¹[Agriculture and Rural Development Bank]¹, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

²**[86A. Recovery of Loans by development banks.-** All loans granted by the ¹[Agriculture and Rural Development Bank]¹, all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when they become due, be recoverable by the ¹[Agriculture and Rural Development Bank]¹ concerned.]

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

87. Right of ¹[Agriculture and Rural Development Bank]¹ to pay prior debts of mortgagor.- (1) Where a mortgage is executed in favour of an ¹[Agriculture and Rural Development Bank]¹ for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, (Central Act IV of 1882) by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the ¹[Agriculture and Rural Development Bank]¹ towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(3) For purposes of determining the particulars of prior debts referred to in sub-section (1), any officer of the ¹[State Agriculture and Rural Development Bank]¹ or of the ¹[Agriculture and Rural Development Bank]¹, authorised in this behalf by the State Government by notification in the official Gazette, may, subject to such restrictions, limitations and conditions as may be prescribed, by order in writing require any person to whom any such prior debt may be due, to furnish any information or any document relating to such debt, and thereupon such person shall furnish the information or document so required.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

¹**[87A. Mortgages executed by managers of joint Hindu families.-**(1) Mortgages, in respect of loans by an ²[Agriculture and Rural Development Bank]² or the ²[State Agriculture and Rural Development Bank]² either before or after the commencement of the ³[Karnataka]³ Co-operative Societies (Amendment) Act, 1964 by the manager of a joint Hindu family for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to increase the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

1. Sections 87A and 87B inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(2) In other cases, where a mortgage executed in favour of an ²[Agriculture and Rural Development Bank]² or ²[State Agriculture and Rural Development Bank]² either before or after the commencement of the ¹[Karnataka]¹ Co-operative Societies (Amendment) Act, 1964, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

87B. Restrictions on lease.- (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, no mortgagor of property mortgaged to a ¹[Agriculture and Rural Development Bank], shall except with the prior consent in writing of the Bank, and subject to such terms and conditions as the Bank may impose, lease or create any tenancy rights on any such property:

Provided that the rights of the ¹[Agriculture and Rural Development Bank] shall be enforceable against the tenant purchaser, the lessee or the tenant, as the case may be, as if he himself were a mortgagor.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Where land mortgaged with possession to an ¹[Agriculture and Rural Development Bank], is in actual possession of a tenant, the mortgagor or the ¹[Agriculture and Rural Development Bank] shall give notice to the tenant to pay rent to the ¹[Agriculture and Rural Development Bank] during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned to the ¹[Agriculture and Rural Development Bank].¹

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

88. Distraint - When to be made.- (1) If any instalment payable under a mortgage executed in favour of an ¹[Agriculture and Rural Development Bank] or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee may, in addition to any other remedy available to the Bank, apply to the Registrar for the recovery of such installment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882, (Central Act IV of 1882) take action in the manner prescribed for the purpose of distraining and selling such produce:

Provided that no distraint shall be made after the expiry of ¹[thirty six months]¹ from the date on which the instalment fell due.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(3) The value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

89. Power of sale when to be exercised.- (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), where a

power of sale without the intervention of the court is expressly conferred on the ¹[Agriculture and Rural Development Bank] ¹ by the mortgage deed, the committee of such Bank or any person authorized by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the Bank, to bring the mortgaged property to sale without the intervention of the court.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) No such power shall be exercised unless and until,—

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor;

(b) notice in writing requiring payment of such mortgage money or part has been served upon,—

(i) the mortgagor;

(ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made in payment of such mortgage money or part thereof for three months after such service.

¹[(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for ²[an] ³[Agriculture and Rural Development Bank] ³ or the ³[State Agriculture and Rural Development Bank] ³ to purchase any mortgaged property sold under this Chapter.]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

¹**[89A. Confirmation of sale.-** (1) On effecting the sale by an ²[Agriculture and Rural Development Bank] ² under section 89, the bank shall, in the prescribed manner submit to the ²[State Agriculture and Rural Development Bank] ² and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the ²[State Agriculture and Rural Development Bank] ² may, with the approval of the Registrar, confirm the sale or cancel it.

1. Sections 89A to 89H inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Where the sale is effected by the ¹[State Agriculture and Rural Development Bank] ¹or the Trustee under section 89, the ¹[State Agriculture and Rural Development Bank] ¹or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

89B. Disposal of sale-proceeds.- The proceeds of every sale effected under section 89 and confirmed under section 89A, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequences whereof the mortgage property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery.

If there remain any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by the ¹[Agriculture and Rural Development Bank] ¹:

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

Provided that before any such payments are made the unsecured dues owing,-

(a) from the mortgagor to the ¹[Agriculture and Rural Development Bank] ¹ may be adjusted, and

(b) from any member or past member to whom the mortgagor is indebted may also be adjusted under the written authority given by such member and past member and after holding such inquiry as may be deemed necessary.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

89C. Certificate to purchase, delivery of property and title of purchaser.-

(1) Where a sale of mortgaged property has become absolute under section 89A and the sale-proceeds, have been received in full by the ¹[Agriculture and Rural Development Bank] ¹, the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale-price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian Registration Act, 1908, within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) (a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the ¹[State Agriculture and Rural Development Bank] ¹or an ¹[Agriculture and Rural Development Bank] ¹and a certificate in respect thereof has been granted under the foregoing sub-section, the Deputy Commissioner shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under the foregoing sub-section, the Deputy Commissioner shall, on the application of the purchaser and after notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgagor have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of a power of sale under ¹[section 89] ¹, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorizing the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised:

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

Provided that any person who suffers damage on account of unauthorized, improper or irregular exercise of such power shall have a remedy in damages against the ¹[Agriculture and Rural Development Bank] ¹.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

89D. Recovery of loans on certificate by Registrar.- (1) Notwithstanding anything contained in sections 70 and ¹71, ¹on an application made by an ¹[Agriculture and Rural Development Bank] ¹for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) A certificate by the Registrar under sub-section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be

recoverable according to the law for the time being in force for the recovery of arrears of land revenue.

(3) It shall be lawful to the Deputy Commissioner to take precautionary measures authorized by section 188 of the ²[Karnataka] ²Land Revenue Act, 1964 or any law or provision corresponding thereto for the time being in force until the arrears due to the ¹[Agriculture and Rural Development Bank] ¹ together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for payment of such arrears, is furnished to the satisfaction of the Registrar.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(4) It shall be competent for the Registrar or a person authorized by him to direct conditional attachment of the property of the mortgagor until the arrears due to the ¹[Agriculture and Rural Development Bank] ¹ together with interest and incidental charges incurred in recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 95 shall apply *mutatis mutandis* to conditional attachment of any property made or to be made under this section.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

89E. Deputy Commissioner to make recoveries during a certain period.-

(1) During such period as the State Government may by general or special order notify in the official Gazette, it shall be competent for the Deputy Commissioner on application being made to him in that behalf by an ¹[Agriculture and Rural Development Bank] ¹, to recover all sums due to the ¹[Agriculture and Rural Development Bank] (including the cost of such recovery).

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Any amount due to an ¹[Agriculture and Rural Development Bank] ¹ shall be recoverable by the Deputy Commissioner or any officer specially authorised by the Deputy Commissioner in this behalf, in all or any of the following modes, namely:—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

- (a) from the borrower—as if they were arrears of land revenue due by him;
- (b) out of the land for the benefit of which the loan has been granted according to the procedure for the realization of land revenue by the sale of immovable property;
- (c) from a surety (if any) as if they were arrears of land revenue due by him;

(d) out of the property comprised in the collateral security (if any) according to the procedure for the realization of land revenue by the sale of immovable property.

89F. Officers of banks not to bid at sales.- At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of an ¹[Agriculture and Rural Development Bank] or the ¹[State Agriculture and Rural Development Bank], except on behalf of the bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

89G. Section 40 of Bombay Act 28 of 1947 not to apply to alienation in favour of Land Development Banks.- Nothing contained in section 40 of the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour of the ¹[Agriculture and Rural Development Bank].

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

89H. Provision for Guarantee Funds to meet certain losses.- (1) It shall be competent for the State Government to constitute one or more Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the ¹[Agriculture and Rural Development Bank] on titles to immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the State Government, it is necessary to provide for or create a separate Guarantee Fund.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) The ¹[State Agriculture and Rural Development Bank] and the ¹[Agriculture and Rural Development Bank] shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such Funds shall be governed by such rules as may be made by the State Government in this behalf.]

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

90. Powers of ¹[Agriculture and Rural Development Bank] where mortgaged property is destroyed or security becomes insufficient.- Where any property mortgaged to an ¹[Agriculture and Rural Development Bank] is wholly or partially destroyed or the security is rendered insufficient and the mortgagor,

having been given a reasonable opportunity by the committee of the ¹[Agriculture and Rural Development Bank], of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under section 88 or section 89 for the recovery thereof.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the ¹[Agriculture and Rural Development Bank].

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

91. Power of Board or of Trustee to distrain and sell property, etc.- (1)

The Board or the Trustee may direct the committee of an ¹[Agriculture and Rural Development Bank] to take action against a defaulter under section 88, section 89 or section 90 and if the committee neglects or fails to do so, the Board or the Trustee may take such action.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) (a) Where such action is taken by the Board, the provisions of this Chapter and of any rules or regulations made in this behalf shall apply in respect thereto as if all references to the ¹[Agriculture and Rural Development Bank] and to its Committee in the said provisions were references to the ¹[State Agriculture and Rural Development Bank] and the Board, respectively.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) Where such action is taken by the Trustee, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the ¹[Agriculture and Rural Development Bank] or to its committee in the said provisions were references to the Trustee.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

92. Title of purchaser not to be questioned on the ground of irregularity, etc.- Where any property is sold in the exercise or purported exercise of a power of sale under section 89, the title of the purchaser shall not be questioned on the ground that,—

(a) the circumstances required for authorizing the sale had not arisen, or
(b) the power of sale was otherwise improperly or irregularly exercised;
but any person who has suffered any damage by an unauthorized, improper or irregular exercise of any such power shall have a remedy in damages against the ¹[Agriculture and Rural Development Bank] ¹.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

93. Mortgage not to be questioned on insolvency of mortgagor.- Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of an ¹[Agriculture and Rural Development Bank] ¹ shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the ¹[Agriculture and Rural Development Bank] ¹ a preference over the other creditors of the mortgagor.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

94. Appointment of receiver and his powers.- (1) The Board may, on the application of an ¹[Agriculture and Rural Development Bank] ¹ and under circumstances in which the power of sale conferred by section 89 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882 (Central Act IV of 1882).

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a civil court.

95. Mortgagor's powers to lease.- (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding five years.

(2) Any lease granted in contravention of the provisions of sub-section (1) shall be void.

96. Delegation of certain powers by Board.- The Board may, if it thinks fit, delegate all or any of its powers under sections 89, 91 and 94 to an executive committee constituted by it and consisting of two or more of its members.

97. Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter.- The provisions of sections 102 and 103 of the Transfer of Property Act 1882 (Central Act IV of 1882), and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Chapter.

¹[98. Power to ²[Board] ² of ³[State Agriculture and Rural Development Bank] to supervise ³[Agriculture and Rural Development Bank] and make regulations.- The ²[Board] ² of the ³[State Agriculture and Rural Development Bank] shall have a general power of supervision over ³[Agriculture and Rural Development Bank] and may, with the previous sanction of the State Government, by notification in the official Gazette make regulations, not inconsistent with this Act or the rules made thereunder, for all or any of the following matters, namely:—

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) for the inspection of the account books and proceedings of ¹[Agriculture and Rural Development Bank] ;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) for the submission of returns and reports by such banks in respect of their transactions;

(c) for the periodical settlement of accounts between such banks and the ¹[State Agriculture and Rural Development Bank] being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the ¹[State Agriculture and Rural Development Bank] ;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans;

(e) for the investment of moneys realised from the mortgagors;

(f) the conditions of service of employees of such banks;

- (g) the programme and policy to be followed by such banks for making loans;
- (h) the types and extent of security to be obtained by such banks for advancing loans;
- (i) generally, for the purpose of safeguarding the interest of the parties, furtherance of activities of such banks, and carrying out the purposes of this Chapter.]¹

CHAPTER XII

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS.

99. Enforcement of charge.- Notwithstanding anything contained in Chapter IX, or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property which is subject to a charge under sub-section (1) of section 32:

Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within seven days from the date of such service.

100. Recovery of moneys due to Societies.- (1) Notwithstanding anything contained in Chapter IX or any other law for the time being in force, on an application made by an approved society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making an enquiry in such manner as may be prescribed, grant a certificate for the recovery of the amount stated therein to be due as arrears:

Provided that if the determination of the amount due from any person to the society depends upon decisions on complicated questions of fact or law, the Registrar shall dispose of the case in accordance with the provisions of section 71 as if it were a dispute referred to him for decision under section 70.

(2) A certificate granted by the Registrar under sub-section (1) shall be final and conclusive. The arrears stated to be due therein shall be recoverable as arrears of land revenue or according to the procedure provided in section 101:

Provided that any error in such certificate may be rectified by the Registrar *suo motu* or on the application of the society or the member affected by the certificate.

(3) It shall be lawful for the Deputy Commissioner to take precautionary measures authorised by ¹[section 188 of the Karnataka Land Revenue Act, 1964], until the arrears due to the society together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

Explanation.—For the purpose of this section,—

(i) “approved society” shall mean a society of such class of societies declared to be approved societies for purposes of this section by rules;

(ii) “financing of crops” shall mean advancing of loans for the raising of crops during the ploughing season or later for ploughing, weeding, harvesting, purchase of seeds, manure or for such other purposes as may be prescribed by the Registrar, such loans being repayable during the season when the crops for which the loans were advanced are harvested;

(iii) ‘seasonal finance’ shall mean the advancing of loans for such purposes as may be specified by notification in the official Gazette by the Registrar, such loans being repayable on or before the 31st of March following or such other date as may be specified by a like notification by the Registrar.

101. Execution of orders, etc.- ²[(1)]² Every order made by the Registrar under sub-section ¹[(1)]¹ of section 69 or under section 99, every decision or award made under section 71, every order made by the Liquidator under section 74 and every order made by the Tribunal under sections 105 and 107, and every order made under section 106 or 108 shall subject to any other provision of this Act be binding on the person or co-operative society against whom the order, decision or award has been obtained or passed and shall, if not carried out,—

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Renumbered by Act 39 of 1975 w.e.f. 23.09.1975.

(a) on a certificate signed by the Registrar, or any person authorized by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

Provided that an application for the recovery in such manner of any sum shall be made,—

(i) to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar or by any person authorized by him in this behalf;

(ii) within twelve years from the date fixed, in the order, decision or award, and if no such date is fixed, from the date of the order, decision or award, as the case may be; or

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a co-operative society against whom the order, decision or award has been obtained or passed.

¹[(2) (a) Notwithstanding anything contained in this Act every question relating to the execution, discharge or satisfaction of an order, decision or award referred to in sub-section (1) or relating to the confirmation or setting aside of a sale held in an execution of such order, decision or award in pursuance of clause (c) of sub-section (1), or relating to any claim or objection to an attachment of any property made under section 103 or in execution in pursuance of the said clause (c), shall be determined, by an order of the Registrar or any other person subordinate to him, empowered by the Registrar under the said clause (c) (hereinafter in this section referred to as "authorized person") before whom such question arises.

(b) (i) Where any claim is preferred against, or any objection is made to, the attachment of any property made under section 103 or in execution in pursuance of clause (c) of sub-section (1), on the ground that the said property is not liable to such attachment, the Registrar or the authorized person shall proceed to investigate the claim or objection:

Provided that where the Registrar or the authorized person considers that the claim or objection was designedly or unnecessarily delayed, he shall make an order refusing such investigation;

(ii) Where, upon the said investigation, the Registrar or the authorized person is satisfied that for the reason stated in the claim or objection, such property was not, at the date of the attachment, in the possession of the person or co-operative society against whom the order, decision or award has been obtained or passed (hereinafter in this section referred to as the "judgment-debtor") or of some person in trust for the judgement-debtor or in the occupancy of a tenant or other person paying rent to the judgement-debtor or that, being in the possession of the judgement-debtor at the said date, it was so in his possession, not in his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the

Registrar or the authorized person shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment.

(iii) Where the Registrar or the authorized person is satisfied that the property was, on the said date, in the possession of the judgement-debtor as his own property and not on account of any other person, or was in the occupancy of a tenant or other person paying rent to him, the Registrar or the authorized person shall disallow the claim;

(iv) Where a claim or an objection is preferred, the party against whom an order is made may within a period of one year from the date of such order, institute a suit in a civil court to establish the right which he claims to the property in dispute; but, subject to the result of such suit, if any, the order of the Registrar or the authorized person shall be conclusive.]¹

¹ 1. Inserted by Act 39 of 1975 w.e.f. 01.06.1960.

¹ **[101A. Transfer of property made after issue of certificate void against co-operative society.-** Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar or any person authorized by him in this behalf under section 101 shall be null and void as against the co-operative society on whose application the said certificate was issued.

1. Sections 101A & 101B Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

101B. Transfer of property which cannot be sold.- (1) When in any execution of an order sought to be executed under section 101, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter, or of some person on his behalf or of some person claiming under a title created by the defaulter after the issue of the certificate by the Registrar or any person authorized by him under section 101, the Court, or the Deputy Commissioner or the Registrar, as the case may be, may, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof shall be transferred in the manner prescribed, to the co-operative society which has applied for the execution of the said order.

(2) Where property is transferred to the co-operative society under sub-section (1) or where the property is sold under section 101, the Court, the Deputy Commissioner or the Registrar, as the case may be, may in accordance with the rules place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Deputy Commissioner or the Registrar, as the case may be, and the said society.

(4) Subject to the general or special orders of the State Government, the Deputy Commissioner or the Registrar may delegate to an officer not below the rank of an Assistant Commissioner or an Assistant Registrar, the powers exercisable by the Deputy Commissioner or the Registrar under this section.]¹

¹[101C. x x x]¹

¹ Inserted by Act 34 of 1985 w.e.f. 27.06.1985 and Omitted by Act 34 of 1991 w.e.f. 10.12.1991.

102. Registrar or person empowered by him to be a civil court for certain purposes.- The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of Article 182 of the First Schedule to the ¹[Limitation Act, 1963]¹.

¹ Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

103. Attachment of property before award or order.- ¹[(1)]¹ If the Registrar is satisfied on an application, report, enquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act,—

¹ Renumbered by Act 40 of 1964 w.e.f. 26.06.1965.

- (a) is about to dispose of the whole or any part of his property, or
- (b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the Arbitrator or Liquidator, as the case may be,

he may, unless adequate security is furnished, direct the attachment of the said property; and such attachment shall have the same effect as if made by a competent civil court.

¹[(2) Where the Registrar directs attachment of the property under sub-section (1), he shall issue a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period; and if the person fails to provide the security so demanded, the Registrar may confirm the

order and after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section may direct the disposal of the property so attached towards the claim if awarded.

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.¹

1. Sub-sections (2) & (3) inserted by Act 40 of 1964 w.e.f. 26.06.1965.

104. Recovery of sums due to Government.- (1) All sums due from a co-operative society or from an ²[office bearer]² or member or past member of a co-operative society as such to Government including any costs awarded to Government under any provision of this Act, may, ³on a certificate issued by the Registrar ³[or the ¹[Director of Co-operative Audit]] in this behalf, be recovered in the same manner as arrears of land revenue.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Inserted by Act 3 of 1980 w.e.f. 11.08.1977.

(2) Sums due from a society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies, from the members, past members or the estates of deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 25.

¹[(3) Notwithstanding anything contained in the preceding sub-sections, the audit fee due from a co-operative society may also be recovered in such manner as may be prescribed.]¹

1. Inserted by Act 3 of 1980 w.e.f. 11.08.1977.

²**[104A. Application of this Chapter to Co-operative Societies in other States.-** The provisions of this Chapter and all rules made under this Act relating to, or in any manner connected with the recovery of the sum, specified in section 103 shall apply with such modifications if any, as may be directed by the State Government in regard to the recovery of like sums due to co-operative societies

registered or deemed to be registered under any law for the time being in force in any State in India notified in this behalf by the State Government in the official Gazette as if such co-operative societies had been registered in the ¹[State of Karnataka]¹ under this Act.]²

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

CHAPTER XIII

APPEALS, REVISION AND REVIEW.

105. Appeals to the Tribunal.- Any person aggrieved by,—

- (a) any decision of the Registrar made under clause (a) of sub-section (1) of section 71; or
- (b) any decision of the person invested by the State Government with powers in that behalf under clause (b) of sub-section (1) of section 71; or
- (c) any award of an Arbitrator under clause (c) of sub-section (1) of section 71; or
- (d) any determination of a Liquidator under clauses (f) of subsection (2) of section 74; or
- (e) any order made under section 103 with a view to preventing any delay or obstruction in ¹[the execution of any order, decision or award that may be made under sections 69 and 71]¹; or

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(f) any order passed under section 69;]¹

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

may, within sixty days from the date of the decision, award or order, as the case may be, appeal to the Tribunal.

¹**[105A. Appeals relating to admission of members to societies.-** (1) Any person who has made an application for admission as a member under sub-section (3) of section 16 may appeal to the Registrar against any refusal of the co-operative society to admit him as a member or against any failure on its part within the period referred to in sub-section (4) of section 16 to admit him as a member or to send a notice of its refusal to admit.

1. Section 105A inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(2) Every appeal under sub-section (1) shall be made by a petition in writing within sixty days by the person seeking admission of the communication of refusal,

or within sixty days on which the admission shall be deemed to have been refused under sub-section (4) of section 16 as the case may be. ¹[x x x]¹

1. Omitted by Act 39 of 1975 w.e.f. 23.09.1975.

(3) The Registrar shall, after causing reasonable notice to be given to the co-operative society and also to the person seeking admission, and giving them a reasonable opportunity to make their representations, if any, in writing, by order, direct either that the person shall be admitted by the co-operative society or that he need not be admitted by the society, and in the former case the co-operative society shall give effect to the decision within ten days of the receipt of the order.

(4) Before making an order under sub-section (3) on an appeal against any refusal of the co-operative society to admit a person as a member, the Registrar may require the co-operative society to disclose to him the reasons for such refusal and on the failure or refusal of the co-operative society to disclose such reasons, the Registrar may presume that the disclosure if made would be unfavourable to the co-operative society. ¹[The Registrar shall dispose of every appeal as expeditiously as possible.]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

(5) All proceedings in appeals under this section or in relation thereto shall be confidential, and no suit, prosecution or other legal proceedings shall lie in respect of any allegation made in such proceedings, whether orally or otherwise.]¹

106. Appeals to other authorities.- (1) ¹[Subject to the provisions of section 108A, an appeal shall lie under this section] against,—

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

(a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a co-operative society;

¹[(b) an order of the Registrar made under sub-section (4) or sub-section (6) of section 12]¹

1. Substituted by Act 13 of 2004 w.e.f. 22.03.2004.

¹[(c) an order of the Registrar under section 17]¹

1. Omitted by Act 40 of 1964 w.e.f. 26.06.1965 and again inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(d) an order of the Registrar under sub-section (2) of section 27;

¹[(d-1) an order of the Registrar under section 29C;]¹

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976.

(e) an order of the Registrar removing the committee of a co-operative society made under section 30;

¹[(e-1) an order of Registrar appointing a special officer under sub-section (1) of section 31]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(f) the seizure and impounding of books or property under section 66;

(g) an order made by the Registrar under section 67 apportioning the costs of an inquiry held under section 64 or an inspection made under section 65;

(h) an order of the Registrar under section 68;

¹[(i) x x x]¹

1. Omitted by Act 19 of 1976 w.e.f. 20.01.1976.

(j) an order made by the Registrar under section 72 directing the winding up of a co-operative society;

(k) any order made by the Liquidator of a co-operative society in exercise of the powers conferred on him by section 74, other than a determination under clause (f) of sub-section (2) of that section;

(l) an order made by the Registrar under section 101; or

(m) an order for attachment of any property made by the Registrar under section 103 other than an order referred to in clause (e) of section 105.

¹[(n) x x x]¹

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) An appeal against any act, decision or order under sub-section (1) shall be made within sixty days from the date of the act, decision or order,—

¹[(a) if the act, decision or order was made by the Registrar, to the State Government;

(b) if the act, decision or order was made by any other officer, to that officer's immediate superior officer;]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

¹[Provided that where the act, decision or order was made by the superior officer himself, the appeal shall lie to the next higher officer or authority and, if pending shall stand transferred to and be disposed by such next higher officer or authority.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[Provided further that the appellate authority may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period]¹ ;

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[**Explanation.-** x x x]¹

1. Omitted by Act 40 of 1964 w.e.f. 26.06.1965.

¹[(3) Where an appeal is preferred, the appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the final decision of appeal as it may deem fit;

(4) In disposing of an appeal under this section the appellate authority, may after giving the parties an opportunity of making their representations, pass such order thereon as it may deem fit]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

107. Revision by Tribunal.- ¹[Subjects to the provisions of section 108A, the Tribunal may]¹ *suo motu* or on application of any person aggrieved call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit.

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

108. Powers of revision of State Government.- ¹[Subject to the provisions of section 108A, the State Government]¹ *suo motu* at any time, and, on application of any person aggrieved, within a period of six months from the date of any order, may call for and examine the record of any case or proceedings of any officer subordinate to it except those subject to appeal or revision by the Tribunal or those in respect of which an appeal has been made to the State Government under section 106, and the State Government after such enquiry as it deems fit is satisfied that the order of the officer is contrary to law and has resulted in a miscarriage of justice, pass such orders thereon as the State Government deems just:

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

Provided that no order shall be made to the prejudice of any person under this section unless he has been given a reasonable opportunity of being heard.

¹[**108A. No appeal or revision in certain cases.-** Notwithstanding anything contained in this Act, where with the previous sanction in writing or on the requisition of the Reserve Bank,—

- (i) a co-operative bank has been ordered to be wound up; or
- (ii) a scheme of amalgamation or reorganization of a co-operative bank is given effect to; or

(iii) an order for the removal of the committee and the appointment of an Administrator ²[and Special Officer]² in respect of a co-operative bank, has been made,

there shall be no appeal or revision against such order or action and the sanction or requisition of the Reserve Bank shall not be liable to be called in question in any court of law.]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

CHAPTER XIV

OFFENCES AND PENALTIES.

109. Offences.- (1) Any person other than a co-operative society carrying on business under any name or title of which the word "Co-operative" or its equivalent in any Indian language, is part, without the sanction of the State Government, shall be punishable with a fine which may extend to ¹[two thousand]¹ rupees.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(1A) If default is made in giving effect to the order of the Registrar within the period specified in sub-section (3) of section 105A, the co-operative society and every ²[office bearer]² of the society who is in default shall be punishable with fine which may extend to one thousand rupees or with further fine which may extend to one hundred rupees for every day after the first during which the default continues.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society who contravenes the provisions of section 32 or 33 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to ¹[five thousand]¹ rupees.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(3) A co-operative society or an ¹[office bearer]¹ or member thereof willfully making a false return or furnishing false information, or any person willfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or willfully not furnishing any information or handing over any documents or property required from him by a

person or body of persons authorized in this behalf under the provisions of this Act, shall be punishable ² [with imprisonment which may extend to two years but shall not be less than three months and with fine which may extend to three thousand rupees but shall not be less than five hundred rupees] ² .

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(4) Any employer, who without sufficient cause, fails to make the deduction under sub-section (2) of section 34, or fails to pay to a co-operative society the amount deducted by him under sub-section (2) of section 34 within a period of fourteen days from the date on which such deduction is made, shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with ¹ [imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees.] ¹

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(5) If default is made in complying with provisions of ³ [sub-section (4)] ³ of section 16, sub-clause (ii) of clause (b) of sub-section (1) of section 24, sub-section (1) of section 28, section 56, section 58, section 59, section 60, or section 62, the co-operative society, and every ¹ [office bearer] ¹ or member of committee of the society who is in default shall be punishable with fine which may extend to ² [three] ² hundred rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(6) If any person,—

- (i) not eligible to become a member under section 17 applies to a co-operative society for admission as a member, or becomes a member, or after ceasing to be a member ¹ [under sub-section (2) of that section acts as or exercises any rights or privileges of a member of any such co-operative society] ¹ ;

1. Substituted by Act 71 of 1976 w.e.f. 03.11.1976.

- (ii) exercises the rights of a member in contravention of the provisions of section 19;
- (iii) willfully fails to furnish the information or document in contravention of the provisions of sub-section (3) of section 87;

(iv) grants a lease of the mortgaged property in contravention of sub-section (1) of section 95,
shall be punishable with ¹[imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees] ¹.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(7) if any person who is not eligible to vote under sub-section (2) of section 20 exercises such vote, he shall be punishable with a fine which may extend to ²[three thousand] ² rupees.] ¹

1. Inserted by Act 71 of 1976 w.e.f. 03.11.1976.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(8) If any person collecting any money as share money for a co-operative society in formation does not within a period of seven days from the date of such collection deposit the same in a co-operative bank specified by the Registrar in this behalf in the name of the co-operative society to be formed, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees.

1. Sub-sections (8) to (16) Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(9) Any ¹[office bearer] ¹ or member of a co-operative society who is in possession of any information, books and records fails to furnish such information or produce such books or records or to give assistance to a person appointed or authorized by the State Government or the Registrar or the Director of Co-operative Audit under sections 30, ¹[31] ¹, 63, 64, 65, 65B or 73 and entitled to the possession thereof, shall be punishable with fine which may extend to three thousand rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(10) Any ¹[office bearer] ¹ of a co-operative society or other person who fails to hand over the custody of books, records, cash, securities and other property belonging to the co-operative society to a person appointed under sections 30, ¹[31] ¹ or 73 or any other person or ¹[office bearer] ¹ entitled to the possession thereof shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(11) Any ¹[office bearer] ¹ or member of a co-operative society who willfully fails to comply with any decision, award or order passed by the Registrar or arbitrator or the tribunal shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(12) Any ¹[office bearer]¹ or a member of co-operative society who willfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he has interest, a loan in the name of any other person shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees or with both.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(12A) where any person conducting audit under section 63 or inquiry under section 64 or inspection under section 65 or section 65B,—

- (i) willfully omits to mention in his report any defects or irregularity which he has noticed or might have noticed had he exercised due diligence during the course of audit, inquiry or inspection; or
- (ii) willfully makes false observation in his report;

shall without prejudice to any other action that may be taken against him under any law for the time being in force be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.

(12B) Where a Chief Executive fails to send periodical extracts of cash book and certified copies of the proceedings of the General Meetings and Committee Meetings to the Registrar and the financing bank or credit agency within the time limits specified under sub-section (6) of section 29G, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.¹]

1. Sub-sections (12A) & (12B) inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(13) Any co-operative society or any ¹[office bearer]¹ or employee or paid servant thereof who fails to give effect to any decision or award under section 71 including order if any, passed by the appropriate appellate authority, such decision or award not being a money decree, shall if such failure is by,—

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(a) the Board, be punishable with fine which may extend to five thousand rupees, and

(b) an ¹[office bearer]¹ or an employee or a paid servant of such co-operative society, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(14) A member of the committee of a co-operative society who uses or allows the use of properties or funds of any co-operative society otherwise than in accordance with the provisions of this Act, the rules or the bye-laws of the society, shall be punishable with fine which may extend to five thousand rupees.

(15) Where an ¹[office bearer]¹, an employee, a paid servant or a member of a co-operative society, receives or sanctions a benami loan, accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatsoever, other than legal remuneration as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show in exercise of his official functions favour or disfavour to any person or for rendering or attempting to render any service or dis-service to any person or used or allows to use the properties or funds of any co-operative society otherwise than in accordance with the provisions of this Act, the rules or the bye-laws of the co-operative society; or where any ¹[office bearer]¹ of the co-operative society signs in the minutes of the board or other committee meetings without actually attending such meeting; he shall be deemed to be guilty of corrupt practice, and,-

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(i) every person found guilty of any corrupt practice shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both;

(ii) every person convicted of an offence under clause (i) shall be disqualified permanently to be an ¹[office bearer]¹ or an employee or a paid servant of any co-operative society.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(16) Any co-operative society or a member of its committee or any employee thereof guilty of any contravention of the provisions of this Act for which no penalty is provided elsewhere, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.]¹

110. Offences by Companies.- (1) Where an offence under sub-section (1) or sub-section (4) of section 109 or under any rule has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the aforesaid sub-section or in any rules, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under sub-section (1) or (4) of section 109 or any rule has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate, and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner of the firm.

¹**[110A. Power to compound offences.-** (1) The Registrar may accept from any person against whom a reasonable suspicion exists that he has committed any offence punishable under sub-sections (1), (1A), (2), (5), (7), (9), (13) and (14) of section 109 ²[except an offence in respect of contravention of section 63]² sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed.

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

¹[(1A) The Director of Co-operative Audit may accept from any person against whom a reasonable suspicion exists that he has committed an offence in respect of contravention of section 63 punishable under sub-section (9) of section 109, a sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed]¹.

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) On the payment of such money to the Registrar ¹[or the Director of Co-operative Audit, as the case may be]¹ the suspected person if in custody, shall be discharged, the property, if any, seized shall be released and no further proceeding shall be taken against such person or property.]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

111. Cognizance of offences.- (1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

¹[(2) No prosecution shall be instituted under this Act without the previous sanction of,—

(a) The ²[Director of Co-operative Audit]² in respect of matters arising out of audit;

1. Sub-sections (2) & (3) substituted by Act 3 of 1980 w.e.f. 11.08.1977.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) the Registrar in respect of other matters.

(3) The sanction under sub-section (2) shall not be given,—

(i) without giving to the person concerned an opportunity to represent his case;

(ii) if the ¹[Director of Co-operative Audit]¹ or the Registrar,¹ as the case may be is satisfied that the person concerned has acted in good faith.]

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

CHAPTER XV

MISCELLANEOUS

¹ ²[¹111-A. x x x]²

1. Sections 111A & 111B inserted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Omitted by Act 25 of 1998 w.e.f. 27.10.1998.

111-B. Preservation of records.- The books and every records of a co-operative society shall be preserved for such period as the Registrar may from time to time by general or special order direct. A list of records destroyed shall be prepared and kept by the ¹[Chief Executive]¹ .]

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

112. Prohibition against the use of the word "Co-operative".- No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act II of 1912), came into operation.

113. Address of a co-operative society.-² [(1)]² Every co-operative society shall have an¹ [office and address registered]¹ in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Renumbered by Act 71 of 1976 w.e.f. 03.11.1976.

¹ [(2) All the meetings including the general body meetings of a co-operative society shall be held in its registered office:

Provided that any such meeting may, with the previous permission of the Registrar, be held at any other place within the same city, town or village where the registered office is situated if there is no sufficient accommodation to hold such meeting in the registered office.]¹

1. Inserted by Act 71 of 1976 w.e.f. 03.11.1976.

114. Copy of Act, rules and bye-laws to be open to inspection.-Every co-operative society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the¹ [registered office]¹ of the society.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹ [115. x x x]¹

1. Omitted by Act 5 of 1984 w.e.f. 09.01.1984.

116. Orders to be pronounced.- Every order, decision or award made or given by the Registrar, or any officer or other person or a Liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

¹ [117. **Procedure for settlement of disputes and power of the Registrar or any other person to whom a dispute is referred for decision under section 70.-**

(1) The Registrar or any other person to whom a dispute is referred for decision under section 70, hearing a dispute under section 71 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(2) Except with the permission of the Registrar or any other person deciding a dispute, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Registrar or any other person to whom a dispute is referred is satisfied that a person, whether he be a member of the co-operative society or not, has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Registrar or his nominee or any other person shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Registrar or any other person to whom a dispute is referred for decision under section 70 may, at any stage of the hearing of the dispute, if satisfied that the mistake was *bona fide*, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar or any other person to whom a dispute is referred for decision under section 70, may, at any stage of the proceedings, either upon or without the application of any party and on such terms as may appear to the Registrar, or any other person deciding a dispute, as the case may be to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, or any other person deciding a dispute under section 70, as the case may be, may be necessary in order to enable the Registrar or such person effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs; but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar or any other person to whom a dispute is referred for decision under section 70.¹

118. Bar of jurisdiction of courts.- (1) Save as provided in this Act, no ¹ [civil, labour or revenue court or Industrial Tribunal]¹ shall have any jurisdiction in respect of,—

1. Substituted by Act 2 of 2000 w.e.f. 20.06.2000.

(a) the registration of a co-operative society or bye-laws or of an amendment of a bye-law;

(b) the removal of a committee ¹[or member thereof]¹;

¹ Inserted by Act 2 of 2000 w.e.f. 20.06.2000.

(c) any dispute required under section 70 to be referred to the Registrar or the recovery of moneys under section 100;

(d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with, or instituted against, the Liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever.

119. Application of Limitation Act.- The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall be applicable to the filing of any appeal or application for revision under this Act.

120. Power to exempt societies from conditions of registration.- Notwithstanding anything contained in this Act, the State Government may, by special order published in the official Gazette in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this Act as to registration.

¹**[121. Power to exempt societies.-** The State Government may, by general or special order published in the Official Gazette, exempt any co-operative society or any class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order]¹

¹ Omitted by Act 25 of 1998 w.e.f. 15.08.1998 and again inserted by Act 24 of 2001 w.e.f. 05.09.2001.

122. Register of Members.- Any register or list of members or shares kept by any co-operative society shall be *prima facie* evidence of any of the following particulars entered therein:—

(a) the date on which the name of any person was entered in such register or list as a member;

(b) the date on which any such person ceased to be a member.

123. Proof of entries in co-operative societies, books.- (1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A co-operative society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) ¹[No office bearer]¹ of a co-operative society and no office bearer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the Liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court, Tribunal or the Arbitrator made for special cause.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

124. Service of notice under the Act.- Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business of such person prepaying and posting by registered post a letter containing the notice or order and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course

¹[Provided that a notice relating to any meeting or election of a Co-operative society, other than the meeting convened for the purpose of election of office bearers, shall be issued by certificate of posting]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

125. Notice necessary in suits.- No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and

the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

126. Acts of co-operative societies not to be invalidated by certain defects.-

No act of a co-operative society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

¹[126A. x x x]¹

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

127. Indemnity.- No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority² [or the³ [Director of Co-operative Audit]³ or any other person subordinate to him acting on his authority]^{2 1} [or against the new committee of the co-operative society or the Administrator or the Special Officer appointed under section 30 or section 30A]¹ in respect of anything in good faith done or purporting to have been done under this Act.

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976.

2. Inserted by Act 3 of 1980 w.e.f. 11.08.1977.

3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[127A. ²[Office bearers, members and employees]² of co-operative societies to be public servants.- ²[Every office bearer of a co-operative society, every member of a committee and every employee]² of a co-operative society including sale and recovery officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

128. Companies Act, 1956, not to apply.- The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to co-operative societies.

¹[128A. **Constitution of a common cadre.-** (1) Notwithstanding anything contained in this Act, the rules or the bye-laws, where the Registrar, in the interest of the co-operative movement, considers that the creation of a common cadre of employees for any class of co-operative societies is necessary, he shall authorize one or more federal societies to which such class of co-operative societies is affiliated to exercise the power of appointment, transfer and disciplinary action in respect of such categories of employees of that class of co-operative societies as

may be specified by him and make such regulations as may be necessary for carrying out the said purpose. Where such federal society is so authorized by the Registrar, the affiliated co-operative societies shall not have powers to deal with such categories of employees except to the extent the regulations may permit.

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975 and substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) The Registrar shall have power to require the affiliated co-operative societies to make contribution of such sum every year towards expenditure, as the federal society is likely to incur or has incurred for the purpose. If any co-operative society fails to pay the said sum to such authority as may be specified by the Registrar and within the time fixed by him, the Registrar may on the application of the authority, and after such enquiry as he may consider necessary, make an order requiring the co-operative society to pay the amount, and every such order shall be enforceable against the co-operative society as if it were an award under section 71.]¹

¹[128B. **Duties of police officer.**- It shall be the duty of every police officer to assist the Registrar or any person subordinate to the Registrar reasonably demanding his aid for the lawful exercise of any power vesting in the Registrar or such person under this Act or any rule or bye-law made thereunder.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

129. Powers to make rules.- (1) The State Government may, for the whole or any part of the State and for any class of co-operative societies, after previous publication, by notification in the official Gazette, make rules to carry out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the applicant to whom the order refusing the registration of a co-operative society may be sent by the Registrar;

(b) the procedure and conditions for change in the form and extent of the liability of a co-operative society;

(c) the matters in respect of which a co-operative society shall or may make bye-laws;

(d) the procedure to be followed for amendment of bye-laws by a co-operative society;

(e) the qualifications of individuals who may be admitted as members of co-operative societies

(f) the provision for a second or casting vote by the chairman of a meeting of a co-operative society;

(g) the appointment by a co-operative society of one of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;

¹[(h) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

(i) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;

(j) the mode in which the value of a deceased member's share shall be ascertained;

¹[(k) conduct of election of members of the committee and office bearers of the co-operative society including appointment of returning officers, polling officers and such other officers, and their powers and functions;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(l) the requisitioning of a general meeting of a co-operative society;

¹[(m) remuneration payable to the members of the committee and the administrator or the Special Officer appointed in place of a committee removed by the Registrar;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(n) the qualifications ¹[x x x]¹ for membership of committee of a co-operative society ²[the authority competent to decide questions of disqualification and appeals from such decisions;]²

1. Omitted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

¹[(o) the recruitment including qualification for recruitment and conditions of service of employees of co-operative societies;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(p) the prohibition against officers of a co-operative society being interested in contracts with the society;

(q) the matters connected with direct and indirect partnership of the State Government in co-operative societies;

(r) the rate at which dividend may be paid by co-operative societies;

(s) the objects of the reserve fund of a co-operative society and mode of its investment;

(t) the mode of disposal of reserve fund of a co-operative society on its winding up;

(u) the extent and conditions subject to which a co-operative society may receive deposits and loans;

(v) the restrictions on transactions by a co-operative society with non-members;

(w) the restrictions on grant of loans by a co-operative society against its shares;

(x) the form and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits;

(y) the levy of audit fees on co-operative societies;

(z) the procedure to be followed in proceedings before the Registrar, Arbitrator or other person deciding disputes ¹ [and the fees payable to arbitrators] ¹;

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(aa) the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society;

¹ [(bb) the procedure for recovery of amounts due or payable to a co-operative society and for the transfer of property under section 101-B;]

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(cc) the mode of making attachment before judgment;

¹ [(dd) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which Chapter XI is applicable;

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(dd-1) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XI is applicable;

(dd-2) the qualifications and methods of appointment of an officer to effect sale under section 89 and the powers and function which such an officer may exercise;

(dd-3) for the appointment of a receiver of the produce and income of the mortgaged property for sale under section 89, the conditions in which he may be

appointed or removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive;

(dd-4) the circumstances in which action may be taken by a ¹[Agriculture and Rural Development Bank] ¹ against a mortgagor under section 91;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(dd-5) in case of sale of immovable property under Chapter XI,—

(i) the procedure for proclamation and conduct of the sale and the conditions on which the proposed sale may be abandoned;

(ii) the method of calculating the expenses incidental to the sale or proposed sale;

(iii) the procedure for the receipt of deposit and disposal of the proceeds of sale;

(iv) the procedure for a resale if a proposed sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money;

(v) the form and method of disposal of money by a ¹[Agriculture and Rural Development Bank] ¹ under section 89B;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(vi) the form of sale certificate under section 89C;

(vii) the procedure for the delivery by the Court to the purchaser of the property purchased under section 89C;

(viii) the form of the notice referred to in section 97; and

(ix) the fee payable for the service of such notices and the manner of serving such notices, on the land lord named in such notices;

(dd-6) the time within which and the procedure according to which property purchased by a ¹[Agriculture and Rural Development Bank] ¹ at a sale of immovable property under Chapter XI shall be disposed of by the Bank;]

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(ee) the manner of registering the address of a co-operative society;

(ff) the ¹[account books and records] ¹ and registers to be kept by a co-operative society and power of Registrar to direct the accounts and books to be written up;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(gg) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business;

(hh) the statements and returns to be furnished by co-operative societies to the Registrar;

(ii) the restrictions on persons appearing as legal practitioners;

(jj) the inspection of documents and the levy of fees for granting certified copies thereof; and

(kk) the matters expressly required or allowed by this Act to be prescribed.

¹ [(ll) any other matter necessary for giving effect to the purposes of this Act.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(3) In making a rule under this section, the State Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to two hundred rupees.

¹ [(4) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under section 130, every rule made under this Act shall have effect as if enacted in this Act.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

¹ [129A. **Model bye-laws.**- (1) In respect of any of the matters specified in the rules made in accordance with clause (c) of sub-section (2) of section 129, the Registrar may by notification, make model bye-laws and different model bye-laws may be made for different classes of societies.

(2) The Registrar may by order direct any co-operative society or class or classes of co-operative societies to adopt the model bye-laws in respect of any matter within such period not being less than three months from the date of receipt of the direction by the society.

(3) If a co-operative society fails to take any action for adopting the model bye-laws with or without modifications, the Registrar may by order declare that the said model bye-laws shall be deemed to have been adopted by such society from such date as may be specified in such order and such bye-laws come into force accordingly.]

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

130. Rules and orders to be laid before State Legislature.- Every notification issued under sections 37, 54 and 132, every order made under sections 120 and

121, and every rule made under section 129 shall, as soon as may be, after it is issued or made be laid before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions and if before the expiry of the said period, either House of the State Legislature makes any modification in the notification, order or rule or directs that the notification, order or rule shall not have effect and if the modification or direction is agreed to by the other House, the notification, order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

131. Repeal and savings.- The Bombay Co-operative Societies Act, 1925 (Bombay Act VII of 1925) as in force in the ¹[Belgaum Area], the Madras Co-operative Societies Act, 1932 (Madras Act IV of 1932) and the Madras Co-operative Land Mortgage Banks Act, 1934 (Madras Act X of 1934) as in force in the ¹[Mangalore and Kollegal Area], the Coorg Co-operative Societies Act, 1936 (Coorg Act II of 1936) as in force in Coorg District, the Mysore Co-operative Societies Act, 1948 (Mysore Act LII of 1948), as in force in the Mysore Area the Hyderabad Co-operative Societies Act, 1952 (Hyderabad Act XVI of 1952), and the Hyderabad Co-operative Land Mortgage Banks Act, 1349 F (Hyderabad Act II of 1349 Fasli) as in force in the ¹[Gulbarga Area], are hereby repealed:

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

Provided that any co-operative society existing on the date of commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed enactments shall be deemed to be registered under this Act; and the bye-laws of such society shall so far as they are not inconsistent with the provisions of this Act or the rules made thereunder, continue in force until altered or rescinded in accordance with the provisions of this Act and the rules made thereunder:

Provided further that subject to the preceding proviso section 6 of the ¹[Karnataka] General Clauses Act, 1899 (¹[Karnataka Act] III of 1899) shall be applicable in respect of the repeal of the said enactments and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by a ¹[Karnataka Act] .

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

132. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this

Act, the State Government, may, by notification in the official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may by notification make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

* * * *

NOTIFICATION

I

Bangalore, dated the 25th May, 1960. [No. A & F 21 CAD 59 (II)]

In exercise of powers conferred by sub-section (3) of Section 1 of the Mysore Co-operative Societies Act, 1959 (Mysore Act 11 of 1959), the Government of Mysore hereby appoint the 1st day of June 1960, as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(B. BEERAPPA)

*Secretary to Government, Agriculture and Forest
Department.*

II

Bangalore, dated 22nd–23rd June, 1965.[No. DPC 88 CBA 64.]

S.O. 2640.—In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Co-operative Societies (Amendment) Act, 1964 (Mysore Act 40 of 1964), the Government of Mysore hereby appoints the Twenty-sixth day of June 1965, as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(L. S. GAI)

Under Secretary.

III

Bangalore, dated 11th April 1968 [No. DPC 257 CMD 65]

S.O. 526.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Agricultural Produce Marketing (Regulation) Act, 1966 (Mysore Act 27 of 1966), the Government of Mysore hereby appoints the first day of May 1968, as the date on which the said Act, shall come into force.

(Published in Karnataka Gazette, Extraordinary, PART IV—2C(ii) No. 314, dated 11th April, 1968.)

IV

Bangalore, dated the 30th December 1967 [No. FD 421 CSL 67.]

S.O. 2511.—In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Sales Tax (Amendment) Act, 1967 (Act No. 16 of 1967), the Government of Mysore hereby appoints the 1st day of January 1968, as the date on which all the provisions of the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(N. S. BHARATH)

*Deputy Secretary to Government
Finance Department.*

V

Bangalore, dated 17th July 1975.[No. PD 87 PCM 71]

S.O. 2050.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975), the Government of Karnataka hereby appoints the Seventeenth day of July 1975 as the date on which the said Act shall come into force in the whole of the State of Karnataka.

By Order and in the name of the Governor of Karnataka,

(DHIRENDRA SINGH)

*Deputy Secretary to Government,
Planning Department.*

VI

Bangalore, dated the 23rd September 1975 [No. RDC 322 CEA 75]

S.O. 3077.—In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 1975 (Karnataka Act No. 39 of 1975), the Government of Karnataka hereby appoints the twenty-third day of September 1975 as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

(C. S. HUBLI)

*Deputy Secretary to Government,
Rural Development and Co-operation Department.*

(Published as S.O. 3077 in Part-IV 23 (ii) of Gazette Extraordinary dated 23.09.75 as No. 3471.)

VII

Bangalore, dated 12th August 1998. [No. CMW 131 CLM 98]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 1997 (Karnataka Act 25 of

1998), the Government of Karnataka hereby appoints the fifteenth day of August 1998 to be the day from which all the provisions of the said Act, except provisions of Section 6(2)(iv) inserted by Section 5, Section 29G inserted by Section 29, Section 39A (3) inserted by Section 36, Section 69(3) inserted by Section 46 and Section 111A omitted by Section 61 of the said Act, shall come into force.

By Order and in the name of the Governor of Karnataka,

*Officer on Special Duty,
Co-operation Department.*

VIII

Bangalore, dated 27th October 1998. [No. CMW 131 CLM 98]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 1997 (Karnataka Act 25 of 1998), the Government of Karnataka hereby appoints the twenty seventh day of October 1998 to be the day from which the provisions of section 6(2) (iv) inserted by section 5; section 29G inserted by section 29, section 39A (3) inserted by section 36, section 69 (3) inserted by section 46 and section 111A omitted by section 61 of the said Act, shall come into force.

By Order and in the name of the Governor of Karnataka,

(M.R. RANGANATH)
*Officer on Special Duty,
Co-operation Department.*

IX

Bangalore, dated 20th June 2000. [No. CMW 60 CLM 99]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Second Amendment) Act, 1997 (Karnataka Act 2 of 2000), the Government of Karnataka hereby appoints the twentieth day of June 2000 to be the day from which all the provisions of the said Act, except the provisions of section 26A and section 26B inserted by section 2 of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

(LIZZIE PHILIPS)
*Officer on Special Duty,
Co-operation Department.*

X**Bangalore dated 2nd June, 2003 [No. CMW 90 CLM 2003]**

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Co-operative Societies (Second Amendment) Act, 1997 (Karnataka Act No.2 of 2000), the Government of Karnataka hereby appoints the 31st of May, 2003 to be the date from which the provisions of Section 26A and Section 26B inserted by Section 2 of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

R.S. Huchachary

*Officer on Special Duty,
Co-operation Department.*

XI**Bangalore dated 5th September, 2001 [No. CMW 48 CLM 2001]**

(Published in Karnataka Gazette Part-IV-A Extraordinary No.1648 dated: 07.09.2001)

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Second Amendment) Act, 2000 (Karnataka Act 24 of 2001), the Government of Karnataka hereby appoints the fifth day of September 2001 to be the day from which all the provisions of the said Act, shall come into force.

By Order and in the name of the Governor of Karnataka,

(LIZZIE PHILIPS)

*Officer on Special Duty,
Co-operation Department.*

XII

ಬೆಂಗಳೂರಿನಲ್ಲಿ ದಿನಾಂಕ : 22.03.2004 (ಸಂಖ್ಯೆ: ಸಿಎಂಡೆ ಬ್ಲೂ 83 ಸಿಎಲ್ ಎಂ 2003)

ಕರ್ನಾಟಕ ಸಹಕಾರ ಸಂಘಗಳ (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ 2004 (2004ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 13)ರ ಪ್ರಕರಣ 1ರ ಉಪಪ್ರಕರಣ (2)ರಡಿ ದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ಸಹಕಾರ ಸಂಘದ ಅಧಿನಿಯಮದ ಎಲ್ಲಾ ಉಪಬಂಧಗಳು 22ನೇ ಮಾರ್ಚ್ 2004ರದ ಜಾರಿಯಲ್ಲಿ ಬರುತ್ತವೆ ಎಂದು ನಿಗದಿಪಡಿಸುತ್ತದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಎಸ್. ಹೆಂಚ್ಚಾರಿ

ವಿಶೇಷ ಕರ್ತವ್ಯಾಧಿಕಾರಿ

ಸಹಕಾರ ಇಲಾಖೆ.

KARNATAKA ACT NO. 24 OF 2001
THE KARNATAKA CO-OPERATIVE SOCIETIES
(SECOND AMENDMENT) ACT, 2000

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 2AA
4. Omissionof section 2B
5. Amendment of section 12
6. Amendment of section 18
7. Insertionof new section 18A
8. Amendment of section 20
9. Amendment of section 27
10. Amendment of section 28A
11. Amendment of section 29
12. Amendment of section 29C
13. Amendment of section 29G
14. Amendment of section 30
15. Amendment of section 31
16. Amendment of section 39A
17. Amendment of section 63
18. Amendment of section 64
19. Amendment of section 69
20. Amendment of section 106
21. Insertion of new section 121
22. Amendment of section 124

STATEMENT OF OBJECTS AND REASONS

(As appended to at the time of introduction)

To achieve better results in the Co-operative field and to over come certain difficulties encountered in the effective implementation of the existing provisions of the Karnataka Co-operative Societies Act, 1959. It is considered necessary to amend the Act to provide for the following, namely.-

- (1) To enlarge the definition of “Assisted Socieity” by including even societies which receive assistance in the form of loan or grant or guarantee for repayment of loan or interest.
- (2) To restore the earlier provision providing for appointment of a person as the Director of Co-operative Audit.
- (3) To omit section 2B as it is redundant in view of the provisions contained in the Karnataka Appellate Tribunal Act, 1976.
- (4) To provide for levy of fee in respect of amendment of bye-laws of Co-operative Societies.
- (5) To provide for admission of Self Help Groups as nominal members of a society.
- (6) To have a specific provisions indicating when a person shall cease to be a member of a Co-operative Society.
- (7) To restore earlier provision providing for extension of time by the Registrar to convene the Annual General Body Meeting of a society by a period not exceeding six months.

- (8) To enhance the total number of members of an Apex Society from the existing 25 to 32 and in the case of an urban co-operative bank having an area of operation not beyond a district to enhance it up to 15 members.
- (9) To reduce the term of office of the members of the committee from the existing five co-operative years to three co-operative years.
- (10) To provide that the nominated members shall not have right to become bearers of a primary co-operative society and any other class or classes of co-operative society as may be specified by the Government and to provide that the members so nominated shall hold office during the pleasure of the Government.
- (11) To provide for disqualification under certain circumstances in the case of a person who represents a co-operative society in the committee of District Central Society or with a Federal society or an Apex Society.
- (12) To reduce the term of office of the office bearers from the existing two and half years to one year.
- (13) To provide for appointment and removal of the Chief Executive of an assisted Society by the Government or Registrar.
- (14) To provide for supersession of a committee even in case of violation of any direction issued under section 30B and to provide for further extension of period of appointment of an Administrator up to one year in aggregate.

- (15) To restore the earlier provision providing for appointment of a Special Officer to a society by the State Government on a report made by the Registrar.
- (16) To empower the Registrar to extend the period of appointment of a special officer under section 31 for a further period of one year in the aggregate.
- (17) To provide for postponement of election of co-operative societies in the case of natural calamities etc.,
- (18) To restore earlier provision providing for audit of all co-operative societies by the Director of co-operative Audit.
- (19) To provide explicitly for initiation of surcharge proceedings against Government nominees and ex-officio members.
- (20) To restore earlier provision providing for exemption of societies from the applicability of the provisions of the Act subject to the modification that it shall not apply to section 30A.
- (21) To provide for submission of copies or resolution or order to the Registrar by the Chief Executive and for rescinding or cancelling the resolution or order under certain circumstances.

Certain incidental provisions are also made.

Hence the Bill.

(Vide L.A. Bill No.32 of 2000 File No. ಸಂಖ್ಯೆ 37 ಶಾಸನ 2000)

KARNATAKA ACT NO. 24 OF 2001

(First published in the Karnataka Gazette Extraordinary on the Thirtieth Day of August, 2001)

**THE KARNATAKA CO-OPERATIVE SOCIETIES
(SECOND AMENDMENT) ACT, 2000**

(Received the assent of the Governor on the Twenty Ninth day of August, 2001)

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient further to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty first year of the Republic of India as follows:-

1. Short title and commencement :- (1) This Act may be called the Karnataka Co-operative Societies (Second Amendment) Act, 2000;

(2) It shall come in to force on such ¹[date] as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act;

2. Amendment of section 2 :- In section 2 of the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the principal Act),-

(i) for clause (a-1), the following shall be substituted, namely:-

Published in the Karnataka Gazette Part IV-A Extraordinary No.1616 dated 30-8-2001 (Notification No. ಸಂಖ್ಯೆಶಾಇ 37 ಶಾಸನ 2000)

1. All the provisions of the Act have come into force w.e.f. 5-9-2001. vide Notification No. CMW 48 CLM 2001 dated 5-9-2001.

“(a-1) “Assisted Society” means a Co-operative Society which has received the Government assistance in the form of share capital or loan or grant or guarantee for repayment of loan or interest;”

(ii) in clause (a-4), for the words, figures, letters and brackets “means the Director of Co-operative Audit referred to in sub-section (1) of section 2-AA who performs” the words “means a person appointed to perform” shall be substituted;

(iii) for clause (k), the following shall be substituted, namely:-

“(k) “Tribunal” means the tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976)”

3. Amendment of section 2AA :- In section 2AA of the principal Act, for sub-section (1), the following shall be substituted, namely:-

“(1) The State Government may, appoint a person to be the Director of Co-operative Audit of Co-operative Societies for the State”.

4. Omission of section 2B :- Section 2B of the principal Act shall be omitted.

5. Amendment of section 12:- In section 12 of the principal Act, after sub-section (1), the following shall be inserted, namely:-

“(1A) Every proposal for such amendment shall be accompanied by such fee as may be prescribed, and different fees may be prescribed for different class or classes of co-operative societies”;

6. Amendment of section 18 :- In section 18 of the principle Act in sub-section (1), after clause (c), the following shall be inserted, namely:-

“(d) self help group as nominal members”;

7. Insertion of new section 18A :- After section 18 of the principal Act, the following shall be inserted, namely,-

“18A. Cessation of membership :- A person shall cease to be a member of a co-operative society,-

(a) in the case of an individual, on his or her;

(i) death;

(ii) resignation

(iii) removal or expulsion in accordance with bye-laws of the co-operative society; or

(iv) transfer of whole of his or her share or interest in the co-operative society to another member;

(b) in the case of a firm, company, co-operative society or corporate body,-

(i) on dissolution of the firm or a corporate body;

(ii) on winding up of a company or a co-operative society.

8. Amendment of section 20 :- In section 20 of the principal Act, in sub-section (2), in clause (a-iii), for the words “one year” the words “twelve months” shall be substituted;

9. Amendment of section 27 :- In section 27 of the principal Act, after sub-section (1), the following proviso shall be inserted, namely:-

“Provided that the Registrar may by special order extend the period for holding such meeting by a period not exceeding six months”

10. Amendment of section 28A :- In section 28A of the principal Act,- in sub-section (2),-

(a) in clause (i), after sub-clause (c), the following proviso shall be inserted, namely:-

“Provided that in the case of an urban co-operative bank having an area of operation not beyond a district, the maximum number shall not exceed fifteen members”

(b) for clause (iii), the following shall be substituted, namely:-

“(iii) in the case of an Apex Society, thirty two members”

11. Amendment of section 29 :- In section 29 of the principal Act,-

(1) for sub-section (2), the following shall be substituted, namely:-

“(2) The persons so nominated shall not have the right to become office bearers of primary Co-operative Societies and any other class or classes of Co-operative Societies as may be specified by the State Government from time to time”.

(2) for sub-section (3), the following shall be substituted, namely:-

“(3) The person nominated as a member of a co-operative society under sub-section (1) shall hold office as such member during the pleasure of the State Government”.

12. Amendment of section 29C :- in section 29C of the principal Act, in sub-section(1),-

- (i) in clause (e), the proviso, shall be omitted;
- (ii) after clause (n), the following clause shall be inserted, namely,-

“(o) he, is in the Committee of a District Central Society or a Federal Society or an Apex Society as a representative of a Co-operative Society; and,-

- (i) he ceases to be a member of the primary or secondary society which he represents; or
- (ii) the society which nominated him as a representative withdraws his nomination; or
- (iii) the committee of the society of which he is a member has been removed under section 30, or a special officer is appointed under section 31;
- (iv) the society of which he is the representative has been liquidated”;

13. Amendment of section 29G :- In section 29G of the principal Act,-

- (1) in sub-section (1), in the proviso,-
 - (i) for item (i), the following shall be substituted, namely:-

“(i) subject to such rules as may be prescribed, in case of an assisted society, the Government or the Registrar shall have power to appoint and remove the Chief Executives; and”
 - (ii) in item (ii), for the words “in respect of other co-operative societies” the words “in other cases”, shall be substituted;
- (2) after sub-section (4), the following sub-section shall be inserted, namely;

“(4A) The Chief Executive shall have right to attend every meeting of the society and the committee thereof and to take part in the discussion and to move any resolution or to vote”

(3) in sub-section (6), for the words “copy of the extract of the cash book” the words “copy of the receipt and payment account” shall be substituted;

14. Amendment of section 30 :- In section 30 of the principal Act,-

(1) in sub-section (1),

(i) in clause (b), after the words “State Government or the Registrar”, the words, figures, and letter “including the direction issued under section 30B” shall be inserted;

(ii) for the words “The Registrar may for the reasons to be recorded in writing extend the period of such appointment for a further period of six months”. the words “The Registrar may, with the prior approval of the State Government and for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time, and in any case such extension shall not exceed one year in aggregate” shall be substituted;

(2) after sub-section (3), the following proviso shall be inserted, namely:-

“Provided that in such an election, no member of the committee removed under sub-section (1) shall, notwithstanding anything contained in this Act, the rule or the bye laws, be eligible for being elected as a member of the Committee, for a period of four years from the date of supersession of the committee under the said sub-section”.

15. Amendment of section 31 :- In section 31 of the principal Act.

(i) in the heading, after the words “Special Officer” the words “by the Registrar” shall be inserted;

(ii) in sub-section (1) the following shall be inserted at the end, namely:-

“The Registrar may with the approval of the State Government and for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time and in any case such extension shall not exceed one year in the aggregate”.

16. Amendment of section 39A :- In section 39A of the principal Act, after sub-section (3), the following shall be inserted, namely:-

“(4) Where due to scarcity, drought, flood, fire or any other natural calamities or rainy season or any election programme of the State Legislative Assembly or Council or Parliament or Local Authority co-inciding with the election programme of any society or class of societies, or in public interest the elections are to be postponed, the State Government may, notwithstanding anything contained in this Act, or rule or bye-laws, by general or special order postpone the election of any society or class of societies for a period not exceeding six months at a time and in any case not exceeding two years in aggregate”.

17. Amendment of section 63 :- In section 63 of the principal Act,-

(1) for sub-section (1), the following shall be substituted, namely:-

“(1) The Director of Co-operative Audit shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year”.

(2) in sub-section (3), for the words, brackets, figure and letter “or the person conducting audit under clause (b) of sub-section (1)” the words “or the authorised person” shall be substituted;

(3) in sub-section (4), for the words, brackets, figure and letter “or the person conducting audit under clause (b) of sub-section (1)” the words “or the person authorised” shall be substituted;

(4) in sub-section (5), the words, brackets, figures and letter “or the person conducting audit under clause (b) of sub-section (1)” shall be omitted;

(5) in sub-section (10), first proviso shall be omitted;

18. Amendment of section 64 :- In section 64 of the principal Act in sub-section (2A), for the words “within a period of six months which may, however be extended by the Registrar for a further period of six months for reasons to be recorded in writing”, the words “within a period of twelve months which may however be extended by the State Government on the recommendation of the Registrar, for a further period of six months” shall be substituted;

19. Amendment of section 69 :- In section 69 of the principal Act, in sub-section (1), after the words “Committee of Management” the words “including Government nominees and ex-officio members” shall be inserted.

20. Amendment of section 106 :- In section 106 of the principal Act,-

(i) in sub-section (2), after the proviso, the following shall be inserted, namely:-

“Provided further that the appellate authority may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period”;

(ii) after sub-section (2), the following shall be inserted, namely:-

“(3) Where an appeal is preferred, the appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the final decision of appeal as it may deem fit;

(4) In disposing of an appeal under this section the appellate authority, may after giving the parties an opportunity of making their representations, pass such order thereon as it may deem fit”.

21. Insertion of new section 121 :- After Section 120 of the principal Act, the following section shall be inserted, namely.

“121. Power to exempt societies :- The State Government may, by general or special order published in the Official Gazette, exempt any co-operative society or any class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order.”

22. Amendment of section 124 :- In section 124 of the principal Act, the following proviso shall be inserted, namely,-

“Provided that a notice relating to any meeting or election of a co-operative society, other than the meeting convened for the purpose of election of office bearers, shall be issued by certificate of posting”;

KARNATAKA ACT NO. 13 OF 2004
THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2004

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 6
4. Amendment of section 7
5. Amendment of section 17
6. Amendment of section 20
7. Amendment of section 21
8. Amendment of section 26 A
9. Amendment of section 26B
10. Amendment of section 27
11. Amendment of section 28A
12. Amendment of section 30
13. Amendment of section 31
14. Amendment of section 57
15. Amendment of section 59
16. Amendment of section 64
17. Amendment of section 106
18. Amendment of section 110A

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 to provide for:-

- (i) conversion of a Co-operative under Karnataka Souharda Sahakari Act, 1997 into a Co-operative Society.
- (ii) voting rights to the Co-operative Societies after 12 months of their admission as in the case of individuals.
- (iii) prior sanction of RBI in respect of a Co-operative Bank under section 26A and 26B.
- (iv) the Registrar to conduct the general meeting in case of failure to the committee to hold Annual general body meeting.
- (v) the election shall be held within a three months from the date of registration of a Co-operative Society or Societies formed after amalgamation or reorganisation or division and that an administrator be appointed for the said period of three months.
- (vi) vesting of powers under section 30, 31, 59 and 64 with the Registrar.
- (vii) appeal provision against the orders of Registrar under sec 12, 17 and 31.
- (viii) vesting of compounding of offences relating to audit with the Director of Co-operative Audit.

Some consequential amendments are also made in view of judgement passed by the Hon'ble High Court in W.A.No: 1899-1912/2001 and W.P.No. 21461/1999.

Hence the Bill

[L.A. BILL No. 1 OF 2004]

(Entry 32 of List II of the Seventh Schedule to the Constitution of India)

KARNATAKA ACT NO. 13 OF 2004

(First published in the Karnataka Gazette Extra-ordinary on the Sixth day of March, 2004)

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2004

(Received the assent of the Governor on the Fourth day of March, 2004)

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient further to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-fourth year of the Republic of India as follows,-

1. Short title and commencement.- (1) This Act may be called the Karnataka Co-operative Societies (Amendment) Act, 2004

(2) It shall come into force on such ¹[date] as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

2. Amendment of section 2.- In section 2 of the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the principal Act), after clause (d-1), the following clause shall be inserted, namely:-

"(d-2) Co-operative means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) and includes the Union Co-operative and the Federal Co-operative".

3. Amendment of section 6.- In section 6 of the principal Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:-

"(g) in the case of the co-operative which intends to convert itself into a Co-operative Society under this Act, the application shall be accompanied by a resolution of the general meeting of such Co-operative approving such conversion."

4. Amendment of section 7.- In section 7 of the principal Act, in sub-section (1), the following shall be inserted at the end, namely:-

"and send by registered post, a certificate of registration and the original registered bye-laws signed with date and seal by him to the chief promoter mentioned in the application or to the chief executive of the Co-operative which is converted"

5. Amendment of section 17.- In section 17 of the principal Act, in sub-section (1) ,-

- (i) in clause (c), the words "or any of his near relation carries on" shall be omitted;
- (ii) explanation to clause (c) shall be omitted.

6. Amendment of section 20.- In section 20 of the principal Act, in sub-section (2),-

- (a) in clause (a-iii), for the words "an individual member", the words, "a person" shall be substituted.
- (b) in the proviso, for the words "an individual member" the word "member" shall be substituted;

7. Amendment of section 21.- In section 21 of the principal Act, in sub-section (2), for clause (a), the following shall be substituted, namely:-

"(a) the committee of a Co-operative society which is a member of another co-operative society may appoint one of the members of the committee to vote on its behalf in the affairs of that other society"

8. Amendment of section 26 A.- In sub-section (1) of section 26A of the principal Act.-

- (a) the words "In case of an assisted society prior permission of the Registrar, to enter into such partnership, is necessary" shall be omitted;
- (b) the following proviso shall be inserted at the end, namely:-

"Provided that no such partnership shall be entered into without prior permission of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank".

Published in the Karnataka Gazette Part IV-A Extra Ordinary No. 321 dated 6-3-2004 in Notification No. ಸಂಖ್ಯೆಶಾಇ 37 ಶಾಸನ 2003

1. The Act has come into force on 22nd March 2004, vide Notification No. CMW 83 CLM 2003 date 22-3-2004 (Karnataka Gazette Extraordinary No. 375, Dated 22-3-2004)

9. Amendment of section 26B.- In section 26B of the principal Act,-

(1) in sub-section (1),-

(a) the words "An assisted society may enter into such collaboration with the prior approval of the Registrar" shall be omitted.

(b) the following proviso shall be inserted at the end, namely:-

"Provided that no such collaboration shall be entered into without the prior approval of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank".

(2) in sub-section (2),-

(a) after the word "Registrar", the words " or Reserve Bank of India, as the case may be" shall be inserted.

(b) after clause (c), the following clause shall be inserted, namely:-

"(d) "in the case a of Co-operative Bank, the scheme is not detrimental to the interest of depositors or Banking Policy".

10. Amendment of section 27.- In section 27 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

" (3) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar or any other person authorised by him in this behalf shall, without prejudice to the provisions of sub-section (2) convene the general meeting for the purpose of sub-section (1)."

11. Amendment of section 28A.- In section 28A of the principal Act,-

(i) in sub-section (4), after the second proviso, the following shall be inserted, namely:-

"Provided also that the first general meeting of the Co-operative Society or Societies formed after amalgamation or reorganization or division in accordance with section 14 shall be held within three months from the date of registration to elect the first committee to manage the affairs of the Co-operative Society or Societies, and the term of office of such committee shall also be five Co-operative years".

"(ii) in sub-section (5), the following proviso shall be inserted at the end, namely:-

"Provided that the Registrar shall appoint an administrator to a Co-operative Society or each of the co-operative Societies formed after amalgamation or reorganization or division in accordance with section 14 for a period of three months and the administrator so appointed shall arrange for holding elections to a Committee of such Co-operative Society or Societies as the case may be".

12. Amendment of section 30.- In section 30 of the principal Act, in sub-section (1), the words " with the prior approval of the State Government and" shall be omitted.

13. Amendment of section 31.- In section 31 of the principal Act, in sub-section (1), the words " with the approval of the State Government and " shall be omitted.

14. Amendment of section 57.- In section 57 of the principal Act, for sub sections (2A) and (2B), the following, shall be substituted, namely:-

"(2A) A Co-operative Society shall, from out of the balance of its net profits, contribute two percent to the Co-operative Education Fund to be administered by the Karnataka State Co-operative Federation Limited, Bangalore.

(2B) No Co-operative Society which has failed to contribute to the Co-operative Education Fund shall pay dividend to its members."

15. Amendment of section 59.- In section 59 of the principal Act, in sub-section (2), for the words "the State Government may, by notification specify shall have power to borrow from a credit agency subject to such conditions as may be prescribed", the words "the Registrar may, by general or special order, specify, shall have power to borrow from a credit agency subject to such conditions as may be specified in such order" shall be substituted.

16. Amendment of section 64.- In section 64 of the principal Act, in sub-section(2-A), for the words "by the State Government on the recommendation of the Registrar", the words, "by the Registrar for the reasons to be recorded in writing" shall be substituted.

17. Amendment of section 106.- In section 106 of the principal Act.-

- (i) for clause (b), the following shall be substituted namely:-
"(b) an order of the Registrar made under sub-section (4) or sub-section (6) of section 12".
- (ii) after clause (b), the following shall be inserted, namely:-
"(c) an order of the Registrar under section 17"
- (iii) after clause (e), the following shall be inserted, namely:-
"(e-1) an order of the Registrar appointing a special officer under sub-section (1) of section 31"

18. Amendment of section 110A.- In section 110A of the principal Act,-

- (1) in sub-section (1), after the word and figures "section 109", the words and figures "except an offence in respect of contravention of section 63" shall be inserted;
- (2) after sub-section (1), the following shall be inserted, namely:-
"(1A) The Director of Co-operative Audit may accept from any person against whom a reasonable suspicion exists that he has committed an offence in respect of contravention of section 63 punishable under sub-section (9) of section 109, a sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed".
- (3) in sub-section (2), after the words "the Registrar", the words "or the Director of Cooperative Audit, as the case may be" shall be inserted.

By Order and in the name of the Governor of Karnataka

M.R.HEGDE

Secretary to Government

Department of Parliamentary Affairs and Legislation

KARNATAKA ACT NO. 06 OF 2010
THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2010
Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 12
4. Amendment of section 16
5. Amendment of section 20
6. Amendment of section 21
7. Amendment of section 28A
8. Amendment of section 28B
9. Amendment of section 29
10. Amendment of section 29A
11. Amendment of section 29C
12. Amendment of Section 29F
13. Amendment of section 29G
14. Amendment of section 30
15. Amendment of section 31
16. Amendment of section 39A
17. Omission of section 54
18. Substitution of section 56
19. Amendment of section 58
20. Amendment of section 59
21. Amendment of section 60
22. Amendment of section 63
23. Amendment of section 64
24. Amendment of section 65
25. Amendment of section 69
26. Amendment of section 70
27. Amendment of section 70A
28. Amendment of section 71
29. Amendment of section 76
30. Insertion of Chapter XI-A
31. Amendment of section 100
32. Amendment of section 105
33. Amendment of section 106
34. Amendment of section 111

35. Insertion of Section 128A

36. Power to remove difficulty

37. Repeal and Savings

STATEMENT OF OBJECTS AND REASONS

Amending Act 6 of 2010.- The Government of Karnataka had appointed a 3 men committee namely:-

- 1) Sri B.S. Viswanathan, Ex-President & Present director of Karnataka State Cooperative Apex & Rural Development Bank Ltd., Bengaluru
- 2) Sri M.C. Nanayya, Former Minister for Law & Parliamentary Affairs
- 3) Sri Shivanand Patil, President, D.C.C. Bank Ltd., Bijapur with Registrar of Cooperative Societies as Secretary to the committee

on 27.05.2005 to suggest amendments to Karnataka Cooperative Societies Act 1959 to remove restrictive provisions in the Act and to enable the cooperative societies to function in a transparent, accountable, vibrant and democratic manner. The said committee travelled extensively throughout the State and interacted with cooperative societies and cooperators. The committee visited some of the States. The committee submitted its report to Government in February 2006.

The Government of India (GOI) also appointed a task force on 05.08.2004 under the Chairmanship of Prof. A.Vaidyanathan to suggest measures for revival of short-term cooperative credit structure in the country. The said task force travelled extensively throughout the country and interacted with cooperative societies and cooperators and made a critical study of the short-term cooperative credit structure in the Country and submitted its report to GOI on 04.02.2005. Thereafter the GOI held discussions with the representatives of the State Governments and formulated a revival package for revitalisation of short-term credit cooperative structure on the basis of the recommendations of Prof.A.Vaidyanathan and taking into account the views of the State Governments and communicated the revival package to the States in January 2006.

The Government of Karnataka has accepted the revival package and signed tripartite Memorandum of Understanding(MoU) with GoI & NABARD on 25.03.2008. The said MoU envisages certain amendments to be brought to the Karnataka Cooperative Societies Act 1959 giving more powers to the cooperative societies and at the same time vesting certain powers with RBI / NABARD. It is a pre-condition under the MoU that the Karnataka Cooperative Societies Act 1959 be amended accordingly before release of the financial assistance by GoI through NABARD under the package.

In the light of the recommendations of Sri B.S. Viswanathan Committee Report and the MoU signed with GoI on 25.03.2008 and administrative requirements, it is considered necessary to amend the Karnataka Cooperative Societies Act 1959 as follows.

- 1) **Section 2.-** It is proposed to insert the definitions of 'Agriculture and Rural Development Bank', 'Backward Class', 'Co-operative Credit Structure', 'Central Co-operative Bank', 'Chartered Accountant', 'Multipurpose Cooperative Society', 'National Bank', 'Primary Agricultural Credit Society', 'State Agriculture and Rural Development Bank' and 'State Cooperative Bank'. It is proposed to substitute the words 'Government or State' for the word Government in the definition of 'Assisted Society'.

- 2) **Section 12.-** It is proposed to amend Section 12 by inserting the words 'or to give effect to the provisions of the Act or Rules made thereunder' after the words 'interest of such society' to have a clear understanding.
- 3) **Section 16.-** It is proposed to amend Section 16 with the insertion of a Depositor or a self-help group so as to enable them to become members of a cooperative society in the light of the revival package
- 4) **Section 20.-** It is proposed to amend Section 20 clarifying the word 'affairs' to mean 'the general meeting and the election of the members of the committee' and to give a notice of forty five days to the defaulters instead of thirty days.
- 5) **Section 21.-** It is proposed to amend Section 21 by clarifying the word 'affairs' to mean 'the general meeting and the election of the members of the committee' and inserting the words 'or a self-help group' after the words 'a firm' so as to enable the self-help group to send its delegate. It is also proposed that the newly elected members of the committee shall have an opportunity to send a delegate or nominee to any other cooperative society.
- 6) **Section 28A.-** It is proposed to amend Section 28A to provide necessary clarifications as to when an administrator could be appointed.
- 7) **Section 28B.-** It is proposed to amend Section 28B stipulating that the period of the administrator shall not exceed three months in respect of a society in cooperative credit structure.
- 8) **Section 29.-** It is proposed to amend Section 29 by enunciating the duties of Government nominees.
- 9) **Section 29A.-** It is proposed to amend Section 29A by omitting the word 'elected' so as to have a clear understanding regarding the term of office of the members of the committee.
- 10) **Section 29C.-** It is proposed to amend Section 29C that the disqualification mentioned in clause (e) shall not be applicable to the chief executive.
- 11) **Section 29F.-** It is proposed to amend Section 29F to stipulate that the chief executive shall not have the right to vote at a meeting convened for the purpose of electing office-bearers.
- 12) **Section 29G.-** It is proposed to amend Section 29G to enable the co-operative credit structure to appoint their own chief executives in the light of the revival package and stipulating that the chief executive shall be a member of the committee.
- 13) **Section 30.-** It is proposed to amend Section 30 in the light of the revival package.
- 14) **Section 31.-** It is proposed to amend Section 31 by omitting the words 'or for any other reason' so as to limit the power to appoint the special officer to a situation of want of quorum only and to stipulate that the period of special officer shall not exceed three months in respect of a society in cooperative credit structure.
- 15) **Section 39A.-** It is proposed to amend Section 39A by stipulating multi-level holding of elections to different cooperative societies and that the State Government should not postpone the elections of a society in co-operative credit structure for a period exceeding three months.

- 16) **Section 54.-** It is proposed to omit the Section 54 in keeping with the MoU.
- 17) **Section 56.-** It is proposed to amend Section 56 to state the mode of mobilisation of funds of a co-operative society and to provide that TA, DA & Other allowances payable to the members of the committee be specified in the bye-laws subject to the maximum rate specified by the Registrar.
- 18) **Section 58.-** It is proposed to amend Section 58 to lay down that a Co-operative Bank may invest its funds in Scheduled bank or financial institution regulated by the Reserve Bank as per the directives of the Reserve Bank of India.
- 19) **Section 59.-** It is proposed to amend Section 59 to provide for the limit of deposits and loans that a cooperative society can raise to be specified in the bye-laws.
- 20) **Section 60.-** It is proposed to amend Section 60 to enable a cooperative society to make loans to another cooperative society without the sanction of the Registrar.
- 21) **Section 63.-** It is proposed to amend Section 63 making it obligatory on the part of every society to get its accounts audited every year and elaborate the scope of audit.
- 22) **Section 64.-** It is proposed to amend Section 64 to enable a copy of the inquiry report to the cooperative society and the society shall report the action taken thereon within three months to the Registrar.
- 23) **Section 65.-** It is proposed to amend Section 65 to enable a copy of the inspection report to the cooperative society and the society shall report the action taken thereon within three months to the Registrar.
- 24) **Section 69.-** It is proposed to amend Section 69 stipulating that the application shall be decided within a period of twelve months which may be extended upto eighteen months.
- 25) **Section 70.-** It is proposed to amend Section 70 substituting the words 'or any other office bearer' for the words 'secretary, treasurer' as the latter are paid employees.
- 26) **Section 70A.-** It is proposed to amend Section 70A stipulating that a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of cause of action.
- 27) **Section 71.-** It is proposed to amend Section 71 stipulating that the dispute shall be decided within a period of twelve months which may be extended upto eighteen months.
- 28) **Section 76.-** It is proposed to amend Section 76 by omitting clauses (b) & (c) as they have been inserted in Section 2.
- 29) **Section 98A to 98Y.-** It is proposed to incorporate a separate chapter making special provisions applicable to societies in cooperative credit structure as envisaged in the MoU signed with GOI & NABARD in the revival package for revitalisation of cooperative credit structure.
- 30) **Section 100.-** It is proposed to dispense with the approval of the Registrar in the light of the revival package.

- 31) **Section 105.-** It is proposed to amend section 105 stipulating that 25% of the amount due shall be deposited before filing an appeal.
- 32) **Section 106.-** It is proposed to amend section 106 by providing appeals against the orders passed under section 28A(5), 99, 105A and 111 and lay down the appellate authorities specifically. It is also proposed to stipulate that 25% of the amount due shall be deposited before filing an appeal and that the appeal shall be decided within a period of twelve months which may be extended upto eighteen months.
- 33) **Section 111.-** It is proposed to amend section 111 to provide for the sanction of the Registrar for launching a criminal case in respect of all matters concerning a co-operative credit structure society in keeping with MoU. It is also proposed to provide that no sanction of the Registrar or the Director of Cooperative Audit is necessary for filing criminal complaints against the concerned for misappropriation.
- 34) **Section 128A.-** It is proposed to retain Section 128A for a period of six months in order to comply with directions of the Hon'ble High Court in certain cases and give postings to employees who are on weighting and to settle such other service conditions of the employees of primary cooperative agricultural and rural development banks.

As the matter was urgent and both the Houses of the Karnataka Legislature were not in Session, the Karnataka Cooperative Societies (Amendment) Ordinance, 2009 (Karnataka Ordinance No. 8 of 2009) was promulgated on 30.10.2009.

This Bill seeks to replace the said Ordinance.

[L.C.Bill No. 1 of 2010, File No.DPAL 50 Shasana 2009]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO. 06 OF 2010

(First Published in the Karnataka Gazette Extra-ordinary on the Thirtieth day of March, 2010)

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2010

(Received the assent of the Governor on the Twenty ninth day of March, 2010)

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty first year of the republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Co-operative Societies (Amendment) Act, 2010.

(2) Sections 2, 3, 4, 6, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 28, 29, 30 excluding section 98D sought to be inserted therein 33, 34 and 35 shall be deemed to have come into force with effect from the third day of November, 2009. Sections 1, 5, 7, 10, 11, 20, 22, 23, 24, 25, 26, 27, 31, 32 and 37 shall come into force at once. Section 98D sought to be inserted by section 30 shall come into force on such date as the State Government may by notification in the Official Gazette, appoint."

2. Amendment of section 2.- In the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the Principal Act), in section 2,-

(i) in clause (a-1), for the word, 'Government', the words, 'Government or State' shall be substituted.

(ii) after clause (a-1), the following shall be inserted; namely,-

"(a-1-1) '**Agriculture and Rural Development Bank**' means a Co-operative Agriculture and Rural Development Bank registered or deemed to be registered under this Act and admitted as a member of the State Agriculture and Rural Development Bank and includes such class or classes of co-operative societies as may be notified by the Registrar and admitted as members of the State Agriculture and Rural Development Bank."

(iii) after clause (a-2), the following shall be inserted, namely,-

"(a-2-1) '**Backward Class**' means the Backward Classes as notified under clause (a) of section 2 of the Karnataka State Commission for Backward Classes Act, 1995(Karnataka Act No.28 of 1995);"

(iv) after clause (b-1), the following shall be inserted, namely:-

"(b-2) '**Co-operative Credit Structure**' means and includes Primary Agricultural Credit Co-operative Societies by whatever name called, Central Co-operative Banks, State Co-operative Bank, Agricultural and Rural Development Banks and State Agricultural and Rural Development Bank.

(b-3) '**Central Co-operative Bank**' means a federal society engaged in the business of banking.

(b-4) '**Chartered Accountant**' means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949)."

(v) after clause (f), the following shall be inserted, namely:-

"(f-1) '**Multipurpose Cooperative Society**' means a primary society the object of which is to provide various services including services related to credit, business, industry and consumer durables to its members.

"(f-2) '**National Bank**' means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and rural Development Act, 1981 (Central Act No. 61 of 1981)."

(vi) after clause (h-1), the following shall be inserted, namely:-

"(h-2) '**Primary Agricultural Credit Co-operative Society**' means a cooperative society as defined under clause (cciv) of **Section 5** of Banking Regulation Act, 1949 (Central Act 10 of 1949) and includes a multipurpose cooperative society."

(vii) after clause (j-3), the following shall be inserted, namely

"(j-4) '**State Agriculture and Rural Development Bank**' means the Karnataka State Co-operative Agriculture and Rural Development Bank, Limited."

(j-5) '**State Cooperative Bank**' means an apex society doing the business of banking."

3. Amendment of section 12.- In section 12 of the Principal Act, in sub-**section**(5), for the words 'interest of such society', the words 'interest of such society or to give effect to the provisions of the Act or rules made thereunder' shall be substituted.

4. Amendment of section 16.- In section 16 of the Principal Act, in sub-section (1),-

(i) for clause (a), the following shall be substituted, namely:-

"(a) an individual who needs the services of such co-operative society and is competent to enter into contract under the Contract Act, 1872(Central Act IX of 1872)"

(ii) after clause (a) as so substituted, the following shall be inserted, namely:-

"(a-1) a depositor"

5. Amendment of section 20.- In section 20 of the Principal Act,-

(i) in sub-section (1) for the word "affairs", the words "general meeting or in the election of the members of the committee" shall be substituted; and

(ii) in sub-section (2),-

(a) for the words "a meeting", the words "a general meeting or an election of the members of the committee" shall be substituted.

(b) in the explanation, for the words 'such meeting', the words 'the general meeting or the date of election of the members of the committee' shall be substituted.

(c) in the explanation, for the words, 'not less than fifteen days', the words, 'not less than thirty days' shall be substituted.

6. Amendment of section 21.- In section 21 of the Principal Act,-

(i) in sub-section (1), the words "at a general meeting or an election of the members of the committee of a cooperative society" shall be inserted at the end; and

(ii) in sub-section(2), in clause (a), the following proviso shall be inserted at the end namely.-

"Provided that where a new committee has been elected to a cooperative society, such newly elected committee shall send a delegate or nominee to any other cooperative society where it is a member".

(iii) in sub-section(2), in clause (b)

(a) after the words "a firm", wherever they occur, the words "or a self-help group" shall be inserted; and

(b) for the word 'affairs', the words "general meeting or the election of the members of the committee" shall be substituted.

7. Amendment of section 28A.- In section 28A of the Principal Act in sub-section(5), for the words, 'term of office of the committee', the words 'term of office of the committee or if the elections are not held within the time limits specified in Section 39A,' shall be substituted.

8. Amendment of section 28B.- In section 28B of the Principal Act, in sub-section(3), the following proviso shall be inserted; namely:-

"Provided that the Administrator so appointed shall not continue for a period beyond three months in respect of a society in cooperative credit structure."

9. Amendment of section 29.- In section 29 of the Principal Act, after sub-section(4), the following shall be inserted; namely

"(5) The nominated member under sub-section (1) shall perform the following duties, namely:-

- (a) to attend meetings of the committee;
- (b) to ensure implementation of Government policies;
- (c) to register his vote of dissent in all matters in which, according to the best judgement, the resolutions sought to be carried in the committee meetings are not in the interests of the society or of the co-operative movement or are likely to be pre-judicial to the interests of the society or of the co-operative movement;
- (d) to register his vote of dissent when the meeting of the committee seeks to pass a resolution contravening any express order of the State Government or of the Registrar or any provisions of the Act or the rules or the bye-laws of the society; and
- (e) to keep the Registrar and the Government apprised of such resolution under clause (c) or clause (d) if adopted by majority of votes; ”

10. Amendment of section 29A.- In section 29A of the Principal Act, in sub-section(1), for the words 'the term of office of the elected members of the committee', the words 'the term of office of the members of the committee' shall be substituted.

11. Amendment of section 29C.- In section 29C of the Principal Act, in sub-section (1), in clause (e), after the word ‘employee’, the words “other than the chief executive” shall be inserted.

12. Amendment of Section 29F:- In section 29F of the Principal Act, in sub-section (4), the following shall be inserted, at the end, namely,-

"The chief executive shall not have a right to vote at such a meeting."

13. Amendment of section 29G.-In section 29G of the Principal Act,-

(1) in sub-section (1),-

- (i) the words, figures and letter "subject to the provisions of section 128 A" shall be omitted.
- (ii) in the proviso, in item (i), for the words "assisted society", the words "assisted society other than a society in co-operative credit structure" shall be substituted.
- (iii) after the first proviso, the following shall be inserted, namely:-

"Provided further that a society in co-operative credit structure shall have the option of getting the chief executive appointed by requesting the Government or the Registrar, as the case may be."

(2) in sub-section (3), the proviso shall be omitted;

(3) in sub-section (4-A), the words “or to vote” at the end shall be omitted;

(4) after sub section (4-A), the following shall be inserted, namely.-

“(4-B): Notwithstanding anything contained in this Act or the Rules or the byelaws of a cooperative society, the Chief Executive shall be a member of the committee of the cooperative society”

14. Amendment of section 30.- In section 30 of the Principal Act, for sub-section (1), the following shall be substituted, namely.-

"(1) If, in the opinion of the Registrar, the committee,-

- (a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws; or
- (b) commits any act which is prejudicial to the interests of the society or its members; or
- (c) incurs losses for three consecutive years; or
- (d) has serious financial irregularities or frauds which have been detected; or
- (e) fails to get its accounts audited for three consecutive years; or
- (f) against which there are judicial directives to this effect; or
- (g) is otherwise not functioning properly; or
- (h) is not functioning in accordance with the provisions of this Act, the rules or bye-laws or any order or direction issued by the State Government or the Registrar including the direction issued under **Section 30-B**,

the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the said committee and appoint an administrator to manage the affairs of the society for such period, not exceeding six months, as may be specified by the Registrar. The Registrar may, and for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time, and in any case such extension shall not exceed one year in the aggregate:

Provided that the supersession of the committee of a Co-operative Bank shall be done only after consultation with the Reserve Bank of India."

15. Amendment of section 31.- In section 31 of the Principal Act, in sub - section (1),

- (a) the words 'or for any other reason' shall be omitted.
- (b) the following shall be inserted at the end, namely:-

"Provided that the Special Officer so appointed shall not continue for a period beyond three months in respect of a society in cooperative credit structure."

16. Amendment of section 39A.- In section 39A of the Principal Act,

- (i) for sub-section(2), the following shall be substituted; namely:-

"(2) Every general election of the members of the committee shall be held

- (a) in respect of primary societies within twenty days before the date of expiry of the term of office of the Committee
- (b) in respect of secondary societies within tendays before the date of expiry of the term of office of the Committee.
- (c) in respect of federal societies, within fifteen days after the date of expiry of the term of office of the Committee
- (d) in respect of apex societies, within thirty days after the date of expiry of the term of office of the Committee

(2A).-The date of such general election shall be fixed by the Committee or in the absence of the committee by the Administrator or Special Officer."

(ii) in sub-section (4), the following proviso shall be inserted, namely.-

"Provided that the State Government shall not postpone the elections of a society in a co-operative credit structure for a period beyond three months."

17. Omission of section 54.- section 54 of the Principal Act shall be omitted.

18. Substitution of section 56.- For section 56 of the Principal Act, the following shall be substituted, namely:-

"56 Mobilisation of Funds.- (1) A co-operative society may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from,-

- (i) its members; or
- (ii) its depositors; or
- (iii) any other person, institutions and organisations to such extent and subject to such conditions as may be specified in the bye-laws of the co-operative society.

(2) No part of the funds, other than the net profits of a co-operative society, shall be paid by way of bonus or dividend or otherwise distributed among its members:

Provided that a member may be paid such remuneration, allowances or honoraria at such rate as may be specified in the bye-laws for any services rendered by him to such co-operative society.

Provided further that no member other than a member of a society in co-operative credit structure shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the committees or for performing any other functions as a member at a rate higher than the maximum rate specified by the Registrar for the purpose and different rates may be specified for different classes of co-operative societies or for different purposes."

19. Amendment of section 58.- In section 58 of the Principal Act, for clause(e) and the proviso, the following shall be substituted, namely:-

"(e) with any scheduled bank or financial institution regulated by the Reserve Bank of its choice and approved by the Registrar".

Provided that no such approval shall be necessary in respect of a society in cooperative credit structure and a cooperative bank.

Provided further that in the case of a Co-operative Bank, such investment shall be made in accordance with the instructions and directives issued by the Reserve Bank from time to time."

20. Amendment of section 59.- In section 59 of the Principal Act, in sub-section (1), the words "as may be prescribed or" shall be omitted.

21. Amendment of section 60.- In section 60 of the Principal Act, in sub-section(1), in the proviso thereunder, the words and the coma "with the general or special sanction of the Registrar," shall be omitted.

22. Amendment of section 63.- In section 63 of the Principal Act,-

(i) for sub-section (1), the following shall be substituted, namely;-

"(1) Every co-operative society shall get its accounts audited atleast once in each year by the Director of Co-operative Audit or by a person authorised by him by general or special order in writing in this behalf."

- (ii) in sub-section (2), for the words and figure, "sub-section(1)", the words and figures, "sub-section(1) or section 98U or section 98V" shall be substituted.
- (iii) in sub-section (3), the words "or the authorised person," shall be omitted.
- (iv) in sub-section (4), the words "or the person authorised", shall be omitted.
- (v) in sub-section (6), for the words "or any officer", the words "or any person" shall be substituted.
- (vi) after sub-section (11), the following shall be inserted, namely,-

“(12) Without prejudice to provisions of sub-section (3), the auditor shall inquire,-

- (a) whether loans and advances made by the cooperative society on the basis of security have been properly secured and whether terms on which they have been made are not prejudicial to the interests of the cooperative society or its members;
- (b) whether transactions of the cooperative society which are represented merely by book entries are not prejudicial to the interests of the cooperative society;
- (c) whether personal expenses have been charged to revenue account;
- (d) where it is stated in the books and papers of the cooperative society that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance-sheet is correct, regular and not misleading; and
- (e) whether any special issue or subject matter referred to for enquiry by the Reserve bank or the National Bank has been duly enquired into and report thereof is submitted to the Reserve Bank or the National Bank as the case may be.

(13) The auditor shall make a report to the members of the co-operative society on the accounts examined by him and on every balance sheet and profit and loss account and on every other document required to be part of or annexed to the balance sheet or profit and loss account, which are placed before the cooperative society in general meeting during his tenure of office, and the report shall state whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by this Act in the manner so required and give a true and fair view,-

- (a) in the case of the balance sheet, of the state of the cooperative society's affairs as at the end of the year; and
- (b) in the case of the profit and loss account, of the profit or loss for the year.

(14) The auditor's report shall also state-

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
- (b) whether in his opinion, proper books of accounts have been kept by the cooperative society so far as appears from his examination of those books, and proper returns adequate for the purpose of his audit have been received from branches or offices of the cooperative society not visited by him;

- (c) whether the report on the accounts of any branch office audited by a person other than the cooperative society's auditor has been forwarded to him and how he has dealt with the same in preparing the auditor's report; and
- (d) whether the cooperative society's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns.

(15) Where any of the matters referred to in clauses (a) and (b) of sub-section(13) or in clauses (a), (b), (c) and (d) of sub-section (14) is answered in the negative or with a qualifying observation, the auditor's report shall state the reason for the answer."

23. Amendment of section 64.- In section 64 of the Principal Act,

- (i) in sub-section (4), for the word "communicate", the words "send a copy of the inquiry report and communicate" shall be substituted.
- (ii) after sub-section(4), the following shall be inserted, namely.-

"(5) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within three months from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein."

24. Amendment of section 65: In section 65 of the Principal Act,

- (i) in sub-section (2), for the word "communicate", the words "send a copy of the inspection report and communicate" shall be substituted.
- (ii) after sub-section(2), the following shall be inserted, namely.-

"(3) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within three months from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein."

25. Amendment of section 69: In section 69 of the Principal Act, after sub-section(3), the following shall be inserted, namely.-

"(4) The application under sub-section(1) shall be decided within a period of twelve months excluding the period of stay granted by the Court if any. However, the Registrar may for reasons to be recorded in writing extend the said period not exceeding eighteen months."

26. Amendment of section 70.- In section 70 of the Principal Act, in sub-section(2), in clause (c), for the words "Secretary, Treasurer", the words "or any other office-bearer" shall be substituted.

27. Amendment of section 70A.- In section 70A of the Principal Act,

- (i) in sub-section(1), in the proviso, for the words "Managing Director, Honorary Secretary or Other Officer of the committee", the words "or other Office-bearer" shall be substituted.

(ii) after sub-section(2), the following proviso shall be inserted at the end, namely:-

"Provided that a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of the order relating to such dispute."

28. Amendment of section 71.- In section 71 of the Principal Act, after sub-section (4), the following shall be inserted, namely:-

"(5) The dispute under sub-section(1) shall be decided within a period of twelve months excluding the period of stay granted by the Court if any. However, the Registrar may for reasons to be recorded in writing extend the said period not exceeding eighteen months."

29. Amendment of section 76.- In section 76 of the Principal Act, clauses(b) and clause(c) shall be omitted.

30. Insertion of Chapter XI-A.- After chapter XI of the Principal Act, the following chapter shall be inserted, namely:-

"Chapter XI-A

SPECIAL PROVISIONS APPLICABLE TO SOCIETIES IN CO-OPERATIVE CREDIT STRUCTURE

98A. Application of this Chapter.- This chapter shall apply only to co-operative societies in co-operative credit structure.

98B. Overriding effect of Chapter XIA.- Notwithstanding anything contrary or inconsistent contained in any other chapter of this Act or rules framed there under or bye-laws of any co-operative society or orders issued there under, the provisions of this chapter shall have overriding effect in respect of societies in co-operative credit structure.

98C. Approval of bye-laws.- (1) The bye-laws or any amendment to the bye-laws of a co-operative credit structure society shall be registered by the Registrar within thirty days from the date of receipt of the application.

(2) If the Registrar is satisfied that the proposed bye-laws or the amendments to the bye-laws are contrary to the provisions of the Act and the rules made thereunder, he shall reject the same after recording reasons thereon within thirty days from the date of receipt of the application.

98D. Ensuring membership to Depositors.- (1) Every person or group holding a minimum deposit of rupees five thousand for a continuous period of one year in a primary agricultural credit co-operative society shall become a member of the society by subscribing the minimum share capital specified in the bye-laws and shall have full membership with voting rights:

Provided that a person having deposit of less than rupees five thousand for a period of less than one year shall remain a nominal member.

(2) A borrower group shall become a member of a primary agricultural credit cooperative society under sub-section (1) of section 16 by subscribing the prescribed share capital specified in the bye-laws and shall have full voting rights.

(3) Every depositor group or borrower group admitted as a member under sub-section (1) of section 16 shall be entitled to vote through one delegate nominated by the group.

98E. Freedom in all financial and internal administrative matters.- A Co-operative society under Co-operative Credit Structure shall have freedom to decide its financial and internal administrative matters, which include:-

- (i) the interest rates on deposits and loans

Provided that in the case of the State Co-operative Bank & a Central Co-operative bank, the interest rates shall be in conformity with the guidelines issued by the Reserve Bank;

- (ii) the borrowing, investment, depositing its surplus funds, loaning policies (including individual loans) and other business policies;
- (iii) the personnel policies including issues relating to recruitment, promotion, staffing, training, posting and compensation to staff as per business requirements of the society;
- (iv) the internal checks and control systems, appointment of auditors, compensation for the audit and other internal administrative issues; and
- (v) the borrowing from any financial institution regulated by the Reserve Bank of India, keeping in mind the interest of the society and its members."

98F. Limit on State Government's subscription.- The State Government's subscription in the share capital of any Society under the Co-operative Credit Structure shall not exceed twenty-five percent of the total paid up share capital of such society.

Provided that the State Government may further reduce its contribution or such society shall have option to further repay the subscription of the State Government and if the society intends to repay the subscription of the State Government, it shall not be prevented from doing so by the State Government.

98G. Restriction on number of Government Nominees.- (1) Where the Government has subscribed to share capital, there shall be only one nominee of the State Government in the Committee of the State Cooperative Bank or a Central Cooperative Bank or the State Agriculture and Rural Development Bank or a Agriculture and Rural Development Bank.

(2) There shall be no nominee of the State Government in the Committee of a primary agricultural credit cooperative society irrespective of whether the State Government has subscribed to the share capital of such society or not.

98H. Freedom for affiliation or disaffiliation with a federal society.- (1) A Co-operative Credit Structure society registered under Karnataka Co-operative Societies Act, 1959 shall be eligible to become a member of a Federal cooperative or a Secondary co-operative registered under the provisions of Karnataka Souharda Sahakari Act, 1997.

(2) A co-operative registered under Karnataka Souharda Sahakari Act, 1997 may become the member of a Federal society or a Secondary society registered under the Karnataka Cooperative Societies Act 1959.

(3) A co-operative society under the Co-operative Credit Structure shall be at liberty to affiliate or disaffiliate with any Federal society or a Secondary society of its choice keeping in view the financial position of the Federal society or the Secondary society.

Provided that a resolution approving such affiliation or disaffiliation with a Federal society or a Secondary society shall be passed in the annual general meeting held for the purpose with three fourths majority of the total members.

Provided further that before dis-affiliation, the society shall discharge its financial liability, if any, to the society from whom it is dis-affiliating.

98I. Restriction regarding area of operation.- A co-operative society under Co-operative Credit Structure shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for the conduct of its business operations.

98J. Freedom of investment and deposit.- A co-operative Society under the Co-operative Credit Structure may, subject to the guidelines of the Reserve Bank, if any, invest or deposit its funds in any Bank or financial institution regulated by the Reserve Bank and not necessarily in the federal society to which it is affiliated.

98K. Freedom of borrowings.- A co-operative society under Co-operative Credit Structure may obtain loans from any Bank or financial institution regulated by the Reserve Bank and refinance from National Bank or any other financial institution directly or through any Reserve Bank regulated financial institutions and not necessarily from the federal society to which it is affiliated.

98L. Guidelines for payment of dividend.- A primary agricultural credit cooperative society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

98M. Contribution to any fund.- The Registrar shall have no powers to direct any co-operative society in Co-operative Credit Structure to contribute to any funds other than those required for improving its net worth or own funds.

98N. Disqualification of members of the committee of Co-operative Credit Structure.-

(1) No person shall be nominated or co-opted or allowed to continue as a member of the committee of a society in co-operative credit structure, if he.-

(i) is a person who represents a society other than a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank on the Committee of a Central Co-operative Bank or the State Co-operative Bank or the State Agriculture and Rural Development Bank, if such society which he represents has committed a default towards the payments of such Bank on intimation of such defaults by the Chief Executive of the bank concerned;

(ii) is a person who is a defaulter to discharge the liabilities to a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank or represents a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank on the committee of a Central Co-operative Bank or the State Cooperative Bank or the State Agriculture and Rural Development Bank, if such society which he represents has committed a default towards the payments of such Bank on intimation of such defaults by the Chief Executive of the bank concerned;

(iii) is a person,-

- (a) who represents a society whose committee is superseded, or
- (b) who is not a member of such society, or
- (c) who is in default to the society or any other co-operative society in respect of any loan taken by him or has any dues of the society on the date of filing of nomination, or
- (d) who has directly or indirectly, any interest in any subsisting contract made with the society or in any property sold or purchased by the society or in any other transaction of the society, except in any investment made in, or any loan taken from the society, or

- (e) against whom any proceeding for surcharge under section 69 relating to any cooperative society is pending, or
- (f) against whom a criminal proceeding relating to any transaction of a any co-operative society is pending in which cognizance has been taken.

98O. Applicability of Section 20 and Section 29C to the election of a new committee.-

The provisions of section 20 and section 29C shall be applicable for election of a new committee of a society in co-operative credit structure.

98P. Supersession of the Co-operative Credit Structure.- (1) The supersession of the committee of the State Co-operative Bank or a central co-operative bank shall be done by the Registrar only after prior consultation with the Reserve Bank.

(2) The supersession of the committee of a Primary Agricultural Credit Co-operative Society shall be done by the Registrar only on the following grounds, namely: -

- (a) if a society incurs losses for three consecutive years, or
- (b) if serious financial irregularities or frauds have been committed, or
- (c) if there are judicial directives to this effect, or
- (d) if there is lack of quorum for three consecutive meetings, or
- (e) if there is a failure in getting the audit of accounts conducted for three consecutive years as per the Act, or
- (f) if there is willful disobedience or failure to comply with any lawful direction / guidelines issued by the Registrar.

98Q. Elections.- (1) The election to the committee of a co-operative society under the Co-operative Credit Structure shall be conducted before the expiry of the term of the existing Committee and in case of supersession of the committee of such co-operative society, the election shall be conducted within two months from the date of supersession:

Provided that in circumstances beyond control, the State Government may allow holding of such elections within a period not exceeding six months from the date of supersession.

(2) A member of the committee of a Primary Agriculture Credit Cooperative Society which has been superseded under this Act shall not be eligible to be re-elected, re-appointed, re-nominated or re-co-opted as a member of the committee for a period of four consecutive years from the date of supersession.

98R. The Prudential norms.- The prudential norms including Capital to Risk Weighted Assets Ratio shall be prescribed by the Registrar for all the Primary Agricultural Credit Cooperative Societies in consultation with the National Bank.

98S. Removal of Directors and Chief Executive Officers.- (1) The members of the committee or chief executive officers of the State Co-operative Bank and Central Co-operative Banks shall fulfill the criteria stipulated by the Reserve Bank for the time being in force.

(2) A member of the committee of the State Cooperative Bank or a Central Co- operative Bank or a person holding the post of chief executive officer who does not fulfill the criteria stipulated by the Reserve Bank shall be treated as ineligible for such post and if such person is holding the post, he shall be removed by the Registrar or the appointing authority, as the case may be, within two months of being so advised by the Reserve Bank or the National Bank.

However, the existing elected members of the committee holding their post as such members on the date of the commencement of Karnataka Cooperative Societies (Amendment) Act 2009 shall continue to hold their offices till the expiry of their remaining term.

98T. Co-option of professionals in the committee.- (1) The managing committee of the State Cooperative Bank or Central Co-operative Banks shall have at least such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank from time to time and if such number of professionals do not get elected, the committee of that society shall, to the extent of the shortfall, co-opt professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank. The co-opted members shall have all the rights of members inclusive of voting right and the term of such members shall be co-extensive with the term of other elected members.

(2) if any person who, in the opinion of the Reserve Bank or the National Bank, has been co-opted as a member of the committee without having the requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the committee of such society shall ensure removal of that person within two months of being so advised by the Reserve Bank or the National Bank, after giving him an opportunity of being heard.

98U. Audit of accounts.- The State Co-operative Bank and a Central Co-operative Bank shall cause audit and certification of its accounts by a Chartered Accountant selected by it from the panel approved by the National Bank.

98V. Special audit of Co-operative Credit Structure.- The Director of Co-operative Audit shall arrange to conduct the special audit of the State Cooperative Bank or Central Co-operative Banks on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and also arrange to furnish a copy of the report of such special audit to the Reserve Bank and National Bank within the time stipulated. The provisions relating to audit of accounts made under this Act shall also apply to such special audit.

98W. Restriction for using the word 'Bank'. - No primary agricultural credit society or its federation or association shall, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), be registered with the word 'Bank', 'Banker', 'Banking' or any other derivative of the word 'Bank' in its registered name or shall use the same as a part of its name:

Provided that where any primary agricultural credit society or its federation or association, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), has been registered with the word 'Bank' or any of its derivatives as a part of its name or has been using the same as a part of its name before the commencement of the Karnataka Co-operative Societies (Amendment) Act 2009, it shall within three months from the date of such commencement, change its name so as to remove the word 'Bank' or its derivative, if any, from its name:

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall order the winding up of such society after giving a reasonable time and opportunity to the committee of such society for complying with the above provisions.

98X. Implementation of regulatory prescriptions of Reserve Bank.- (1) The Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank, including recommendation for supersession of the committee and winding up of the State Co-operative Bank and Central Co-operative Banks, within one month from the date of receipt of the advice from the Reserve Bank or within such time as may be permitted by the Reserve Bank.

(2) The Registrar shall, on being advised by the Reserve Bank for supersession or winding up, ensure that the administrator or the liquidator as the case may be, is appointed within one month from the date of receipt of the advice from the Reserve Bank or within such time as may be permitted by the Reserve Bank.

(3) If, in the opinion of the Reserve Bank or the National Bank, the chief executive officer of the State Co-operative Bank or a Central Co-operative bank does not fulfill eligibility criteria specified by the Reserve Bank, the Registrar shall direct compliance of the orders of the Reserve Bank or, as the case may be, the National Bank within two months of being so advised by the Reserve Bank or the National Bank.

(4) If in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the committee of the State Cooperative Bank or a Central Cooperative Bank without having the requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the Registrar shall, on being advised by the Reserve Bank or the National Bank, direct compliance of the orders of the Reserve Bank or, as the case may be, the National Bank within two months of being so advised by the Reserve Bank or the National Bank.

98Y. Exemption by the State Government.- No society in the Co-operative Credit Structure shall be exempted under section 121 of this Act in any manner from the application of the provisions of this chapter without prior consultation with the Reserve Bank or the National Bank."

31. Amendment of section 100.- In section 100 of the Principal Act, in sub-section (3), in the explanation,-

(1) in item (ii), the words "as may be prescribed by the Registrar" shall be omitted.

(2) for item (iii), the following shall be substituted, namely:-

"(iii) "seasonal finance" shall mean the advancing of loans for the purposes enumerated in item (ii) above, such loans being repayable on or before the 31st March following or such other date as may be specified by the financing bank or the credit agency."

32. Amendment of section 105.- In section 105 of the Principal Act, shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

"(2) No appeal against an order, decision or award for payment of money shall be considered by the Appellate Authority under sub-section(1) unless it is accompanied by satisfactory proof for having deposited with the concerned society twenty five percent of the amount due in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount payable by the appellant and in case no amount is required to be paid by the Appellant, the amount so deposited shall be refunded to him by the Society."

33. Amendment of section 106.- In section 106 of the principal Act.-

(a) in sub-section(1),-

(i) for clauses (a) and (b), the following shall be substituted, namely,-

"(a) an order of the Registrar under section 7;

(b) an order of the Registrar under section 12;"

(ii) the existing clause (d-1) shall be renumbered as "(d-2)" and before such clause as so renumbered, the following shall be inserted, namely,-

“(d-1) an order of the Registrar made under section 28A(5)”

- (iii) in clause(e), the words, "removing the committee of a co-operative society" shall be omitted.
- (iv) in clause(e-1), the words, "appointing a special officer" shall be omitted.
- (v) clause (j), the words, "directing the winding up of a co-operative society" shall be omitted.
- (vi) after clause (k), the following shall be inserted, namely,-
“(k-1) an order made by the Registrar under section 99”
- (vii) after clause (m), the following shall be inserted, namely,-
“(n) an order made by the Registrar under section 105A;
(o) an order of the Registrar made under section 111”

(b) in sub-section (2), for clauses (a) and (b) and the first proviso thereunder, the following shall be substituted, namely

- "(a) If the act, decision or order was made by the Assistant Registrar, to the jurisdictional Deputy Registrar;
- (b) If the act, decision or order was made by the Deputy Registrar, to the jurisdictional Joint Registrar;
- (c) If the act, decision or order was made by the Joint Registrar, to the jurisdictional Additional Registrar or to the Registrar, as the case may be;
- (d) If the act, decision or order was made by the Additional Registrar, to the Registrar;
- (e) If the act, decision or order was made by the Registrar, to the State Government".

(c) after sub-section (4), the following shall be inserted , namely.-

"(5) The appeal shall be decided within a period of twelve months excluding the period of stay granted by a Court if any. However, the Registrar may for the reasons to be recorded in writing extend the period not exceeding eighteen months.

(6) No appeal against an order for execution of an order, decision or award for payment of money shall be entertained by the Appellate Authority under sub-section(1) unless it is accompanied by satisfactory proof for having deposited with the concerned society, twenty five percent of the amount in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount payable by the appellant and in case no amount is required to be paid by the Appellant, the amount so deposited shall be refunded to him by the Society.”

34. Amendment of section 111.- In section 111 of the Principal Act, for sub-section (2), the following shall be substituted, namely.-

- "(2) No prosecution shall be instituted under this Act without the previous sanction of,-
- (a) the Director of Co-operative Audit in respect of matters arising out of audit other than matters relating to co-operative credit structure society;
- (b) the Registrar in respect of all other matters including matters relating to audit in respect of cooperative credit structure society.

Provided that no sanction of the Registrar or the Director of Cooperative Audit shall be necessary for filing criminal complaints against the delinquents for alleged misappropriation or

embezzlement of funds of a cooperative society detected during the course of audit, inquiry or inspection or in the normal course of business of a cooperative society."

35. Insertion of Section 128A.- After Section 128 of the Principal Act, the following shall be inserted and the same shall be omitted with effect from the first of July 2010.

"128-A. Constitution of a common cadre.- (1) Notwithstanding anything contained in this Act, the rules or the bye-laws, where the Registrar, in the interest of the co-operative movement, considers that the creation of a common cadre of employees for any class of co-operative societies is necessary, he shall authorise one or more federal societies to which such class of co-operative societies is affiliated to exercise the power of appointment, transfer and disciplinary action in respect of such categories of employees of that class of co-operative societies as may be specified by him and make such regulations as may be necessary for carrying out the said purpose. Where such federal society is so authorised by the Registrar, the affiliated co-operative societies shall not have powers to deal with such categories of employees except to the extent the regulations may permit.

(2) The Registrar shall have power to require the affiliated co-operative societies to make contribution of such sum every year towards expenditure, as the federal society is likely to incur or has incurred for the purpose. If any co-operative society fails to pay the said sum to such authority as may be specified by the Registrar and within the time fixed by him, the Registrar may on the application of the authority, and after such enquiry as he may consider necessary, make an order requiring the co-operative society to pay the amount, and every such order shall be enforceable against the co-operative society as if it were an award under Section 71."

36. Power to remove difficulty.- (1) If any difficulty arises in giving effect to the provisions of the Principal Act as amended by this Act, the State Government may, by notification in the Official Gazette, make such provisions as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued under this section after the expiry of two years from the date of commencement of the relevant provision under the Karnataka Co-operative Societies (Amendment) Act, 2010.

(2) Every notification issued under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

37. Repeal and Savings.- (1) The Karnataka Co-operative Societies (Amendment) Ordinance, 2009 (Karnataka Ordinance No. 8 of 2009) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the Principal Act as amended by this Act.

By Order and in the name of the Governor of Karnataka

G.K. BOREGOWDA

Secretary to Government,

Department of Parliamentary Affairs and Legislation

KARNATAKA ACT NO. 04 OF 2011

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2011

Arrangement of Sections

Sections:

1. Short title and commencement
2. Insertion of new section 97A
3. Amendment of section 98Q

STATEMENT OF OBJECTS AND REASONS

Amending Act 04 of 2011.- The Karnataka State Co-operative Agriculture and Rural Development Bank has expressed that the revival package for long-term loan (under Prof. A. Vaidyanathan committee) has not been implemented, it is necessary to continue the existing system till the Government of India takes a decision to implement the Prof. A. Vaidyanathan package for the long-term credit structure. Therefore, it is considered necessary to continue the Common Cadre Committee to prevent adverse effect on the functioning of Primary Co-operative Agricultural and Rural Development (PCARD) Banks. Hence, it is proposed to insert the new section 97A in the Karnataka Co-operative Societies Act, 1959.

It is considered necessary to hold the elections in respect of Co-operative Credit Structure Societies also in four stages namely.- Primary, Secondary, Federal and Apex. Hence, it is proposed to amend section 98Q on the lines of section 39A (2).

Hence the Bill.

[L.A. Bill No. 05 of 2011, File No. Samvyashae 45 Shasana 2010]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

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KARNATAKA ACT NO. 04 OF 2011

(First Published in the Karnataka Gazette Extra-ordinary on the Fourth day of February, 2011)

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2011

(Received the assent of the Governor on the Second day of February, 2011)

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient further to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty first year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Co-operative Societies (Amendment) Act, 2011.

(2) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.

2. Insertion of new section 97A.- In the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the principal Act), after section 97, the following shall be inserted, namely:-

“97A. Constitution of a common cadre for the employees of primary agriculture and rural development banks.- (1) Notwithstanding anything contained in this Act, rules or the bye-laws, where the Registrar, in the interest of a co-operative movement considers that the creation of a common cadre of employees for primary agriculture and rural development banks which are affiliated to State Agriculture and Rural Development Bank is necessary, he shall authorize the State Agriculture and Rural Development Bank to make regulation as may be necessary to exercise the power of appointment, transfer and disciplinary action in respect of such category of employees of Primary Co-operative Agricultural and Rural Development (PCARD) Bank as may be specified by him. Where the Karnataka State Co-operative Agricultural and Rural Development (KASCARD) Bank is so authorized by the Registrar, the affiliated Primary Co-operative Agricultural and Rural Development (PCARD) Bank shall not have powers to deal with such category of employees except to the extent such regulations may permit.

(2) The Registrar shall also have power to require the Primary Co-operative Agricultural and Rural Development (PCARD) Banks to make contribution of such sum every year towards expenditure, as the Karnataka State Co-operative Agricultural and Rural Development (KASCARD)

Bank is likely to incur for the purpose. If any Primary Co-operative Agricultural and Rural Development (PCARD) Bank fails to pay the said sum, the Registrar or such Officer as may be specified by him within the time specified by him, on the application of the Karnataka State Co-operative Agricultural and Rural Development Bank, and after such enquiry as he may consider necessary, make an order requiring the Primary Co-operative Agricultural and Rural Development (PCARD) Bank to pay the amount, and every such order shall be enforceable against such Primary Co-operative Agricultural and Rural Development (PCARD) Bank, as if it were an award under section 71."

3. Amendment of section 98Q.- In section 98Q of the principal Act, in sub-section(1), for the words, "before the expiry of the term of the existing committee", the words, brackets, figures and letter "in accordance with the provisions of the sub-section (2) of section 39A" shall be substituted.

By Order and in the name of the Governor of Karnataka

G.K. BOREGOWDA

Secretary to Government,
Department of Parliamentary Affairs and Legislation

KARNATAKA ACT NO. 28 OF 2012
THE KARNATAKA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) ACT, 2010
Arrangement of Sections

Sections:

1. Short title and commencement
2. Insertion of section 14A

STATEMENT OF OBJECTS AND REASONS

Amending Act 28 of 2012.- The Government of India (GOI) had appointed a task force on 05.08.2004 under the Chairmanship of Prof. A.Vaidyanathan to suggest measures for revival of short-term cooperative credit structure in the country. The said task force travelled extensively throughout the country and interacted with cooperative societies and cooperators and made a critical study of the short-term cooperative credit structure in the Country and submitted its report to GOI on 04.02.2005. Thereafter the GOI held discussions with the representatives of the State Governments and formulated a revival package for revitalisation of short-term credit cooperative structure on the basis of the recommendations of Prof.A.Vaidyanathan and taking into account the views of the State Governments and communicated the revival package to the States in January 2006.

The Government of Karnataka has accepted the revival package and signed tripartite Memorandum of Understanding(MoU) with GOI & NABARD on 25.03.2008. The said MoU envisages certain amendments to be brought to the Karnataka Cooperative Societies Act 1959 giving more powers to the cooperative societies and at the same time vesting certain powers with RBI/NABARD. It is a pre-condition under the MoU that the Karnataka Cooperative Societies Act 1959 be amended accordingly before release of the financial assistance by GOI through NABARD under the package.

It is considered necessary to amend the Karnataka Co-operative Societies Act 1959 with the insertion of Section 14A which empowers the Registrar to order for compulsory amalgamation or division or re-organisation of co-operative societies. This has become a necessity in the light of reorganisation of districts/proposed reorganisation of taluks in the State and to implements the revival package of the Government of India for short-term cooperative credit structure.

Hence the Bill.

[L.C. Bill No.2 of 2010, File No. Samvyashae 57 Shasana 2009]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO. 28 OF 2012

(First Published in the Karnataka Gazette Extra-ordinary on the thirty-first day of July, 2012)

THE KARNATAKA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) ACT, 2010

(Received the assent of the President on the Nineteenth day of July, 2012)

An Act, further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty first year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Co-operative Societies (Second Amendment) Act, 2010.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Insertion of section 14A.- After section 14 of the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959), the following section shall be inserted, namely:-

"14A. Power to direct amalgamation, division and re-organisation in public interest.- (1) Notwithstanding anything contained in this Act or the rules made thereunder and the bye-laws of the co-operative societies concerned, where the Registrar, is satisfied that it is essential in public interest or in the interest of co-operative movement or for the purpose of securing the proper management of any co-operative societies without compromising their financial viability that any two or more co-operative societies should be amalgamated to form a single co-operative society or any co-operative society should be divided or any co-operative society should be reorganized, the Registrar shall order the amalgamation, division or reorganization of such co-operative societies:

Provided that in case of a co-operative bank no order under this sub-section shall be made without the previous sanction in writing of the Reserve Bank.

(2) No order under sub-section (1) shall be made by the Registrar or any other officer without giving an opportunity of making representation or of being heard with a notice of not less than thirty days to any co-operative society or person likely to be affected by such order.

(3) The order shall,-

(a) provide for the devolution of the assets and liabilities of the co-operative society or societies amalgamated, divided or reorganized and the date on which the devolution takes effect;

(b) specify,-

- (i) the composition, strength, names and the term of office of the members (including the Chairman) of the first committee;
- (ii) who shall subject to section 29G be, the Managing Director / Secretary, of the new co-operative society or each of the co-operative societies, as the case may be; and
- (iii) the bye-laws which the new co-operative society or each of the new co-operative societies shall, until amended in accordance with the provisions of the Act and the rules, follow:

Provided that the Registrar may by order curtail the term under sub-clause (i) and take necessary steps to hold general meeting of the co-operative society and elections before the expiry of the term so curtailed.

(4) Every order under sub-section (3) shall be published in the Official Gazette and shall, unless otherwise specified in the order, come into force on such publication.

(5) The order referred to in sub-section (1), may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation or division or reorganization as the case may be.

(6) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882) or the Registration Act, 1908 (Central Act 16 of 1908), in the event of amalgamation, the registration of the amalgamated co-operative society and in the event of division, the registration of new co-operative societies shall with effect from the date specified in the order of amalgamation or division in each case be sufficient conveyance to vest the assets and liabilities of the amalgamating co-operative societies or the original co-operative society in the amalgamated co-operative society or the new co-operative societies, as the case may be.

(7) The amalgamation or division or reorganization of a co-operative society shall not affect any right or obligation of the co-operative societies so amalgamated or the co-operative society so divided or reorganized or render defective any legal proceedings which might have been continued or commenced by or against the co-operative societies which have been so amalgamated or divided or reorganized and accordingly such legal proceedings may be continued or commenced by or against the amalgamated co-operative society, the reorganized co-operative society or the new co-operative societies as the case may be."

By Order and in the name of the Governor of Karnataka,

G.K. BOREGOWDA

Secretary to Government,

Department of Parliamentary Affairs and Legislation

KARNATAKA ACT NO.03 OF 2013
THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2012
Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of the long title and preamble
3. Amendment of section-2
4. Substitution for the word 'Committee'
5. Insertion of new section 11A
6. Amendment of section 12
7. Omission of section 14A
8. Amendment of section 16
9. Amendment of section 17
10. Amendment of section 18A
11. Insertion of new section 19A
12. Amendment of section 20
13. Amendment of section 21
14. Amendment of section 26
15. Amendment of section 27
16. Insertion of section 27A and 27B
17. Amendment of section 28
18. Amendment of section 28A
19. Amendment of section 28B
20. Insertion of section 28C
21. Omission of section 29
22. Amendment of section 29C
23. Amendment of section 29E
24. Amendment of section 29 F
25. Amendment of section 29-G
26. Substitution of section 30
27. Amendment of section 34
28. Substitution of section 39A
29. Omission of section 53A
30. Amendment of section 56
31. Insertion of new section 57A
32. Amendment of section 58
33. Amendment of section 59
34. Substitution of section 63
35. Amendment of section 64

36. Amendment of section 65
37. Amendment of section 68
38. Amendment of section 69
39. Amendment of section 70
40. Amendment of section 71
41. Amendment of section 72
42. Amendment of Section 98B
43. Omission of section 98 P
44. Omission of section 98T
45. Amendment of section 105A
46. Amendment of section 106
47. Amendment of section 108
48. Amendment of section 109
49. Amendment of section 113
50. Amendment of section 117
51. Amendment of section 118
52. Amendment of section 124
53. Amendment of section 129
54. Power to remove difficulties

STATEMENT OF OBJECTS AND REASONS

Amending Act 3 of 2013.- It is considered necessary to amend the Karnataka Cooperative societies Act, 1959 (Karnataka Act No, 11 of 1959) to be in conformity with the provisions of the constitution (97th Amendment) Act, 2011. Opportunity is also taken to make other consequential amendments.

Hence the Bill

[L.A. Bill No.43 of 2012, File No. Samvyashae 71 Shasana 2012]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO.03 OF 2013

(First published in the Karnataka Gazette Extra-ordinary on the Eleventh day of January, 2013)

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2012

(Received the assent of the Governor on the tenth day of January, 2013)

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient further to amend the Karnataka Cooperative Societies Act, 1959 (Karnataka Act, No 11 of 1959) for the purposes hereinafter appearing.

Be it enacted by the Karnataka State Legislature in the sixty third year of the Republic of India as follows:-

1. Short title and commencement.-This Act may be called the Karnataka Co-operative Societies (Amendment) Act, 2012.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Amendment of the long title and preamble.- In the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the Principal Act), in the long title and in the preamble at the two places, for the words, "to consolidate and amend the laws relating to Co-operative societies", the words, "to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies" shall be substituted.

3. Amendment of section-2.- In section 2 of the Principal Act,-

- (i) existing clauses (a-1) and (a-1-1) shall be renumbered as (a-1-1) and (a-1-2) respectively.
- (ii) after clause (a), the following shall be inserted, namely:-
 “(a-1) ‘**Area of operation**’ means jurisdictional area from which the membership is drawn or as specified in the bye-laws of the society”.
- (iii) for clause (a-2-1), the following shall be substituted, namely:-
 “(a-2-1) “**Backward Classes**” means such class or classes of citizens as may be classified as Backward Classes and notified by the Government from time to time.”
- (iv) for clause (b), the following shall be substituted, namely:-
 “(b) ‘**Board**’ means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of the society is entrusted to.”
- (v) after clause (b-4), the following shall be inserted, namely:-
 “(b-5), ‘**Cooperative Election Commission**’ means the ‘cooperative election commission constituted under section 39AA;
- (vi) in clause (d-1), the words “ or year” shall be omitted;
- (vii) after clause (e-2), the following shall be inserted, namely:-
 “(e-2-1) ‘**Director**’ means a member of the board duly elected or nominated or co-opted in accordance with this Act, the rule and the bye-laws made under this Act”;
- (viii) after clause (e-5), the following shall be inserted, namely:-

“(e-6), ‘**General Body**’ means,-

- (i) in relation to a primary cooperative society, all the members of that cooperative society;
- (ii) in relation to a secondary cooperative society, all the delegates of the member cooperative societies and the individual members; and
- (iii) in relation to a federal cooperative society, all the delegates of the member cooperative societies.

(e-7), ‘**General Meeting**’ means a meeting of the general body called and conducted in accordance with the provisions of this Act, the rules and the bye-laws made under this Act.”

- (ix) in clause (g), after the word “vice- chairperson”, the words, “elected secretary or treasurer” shall be inserted.

- (x) after clause (i-1), the following shall be inserted, namely:-

“(i-2) ‘**Representative**’ means a person elected by a group of individual members of a primary cooperative society or a secondary cooperative society to represent them and to participate on their behalf in the representative general body meeting of the society in accordance with Act, the rules and the bye-laws made under this Act;

(i-3) ‘**Representative General Body**’ means all the representatives of a primary cooperative society or a secondary cooperative society;

(i-4) ‘**Representative General Meeting**’ means a meeting of the representatives called and conducted in accordance with provisions of this Act or the rules and the bye-laws of the primary cooperative society or the secondary cooperative society”.

- (xi) after clause (J-5), the following clause shall be inserted, namely:-

“(J-6)- ‘**State Level Cooperative Society**’ means a cooperative society whose area of operation extends to the whole of the State.”

4. Substitution for the word ‘Committee’.- In the Principal Act, for the word ‘committee’ wherever it occurs, the word ‘board’ shall be substituted.

5. Insertion of new section 11A.- After section 11 of the Principal Act, the following shall be inserted, namely:-

“**11A- Bye-laws.**- (1) Every cooperative society shall make its bye-laws in accordance with the provisions of this Act, and the rules made there under.

(2) Except on such specific matters which the Act, or the rules have provided for and which the bye-laws may further regulate on but not contravene, the functioning of every cooperative society shall be regulated by its bye-laws”.

6. Amendment of section 12.- In section 12 of the Principal Act,-

- (i) for sub-section (1), the following shall be substituted, namely:-

“(1) A cooperative society may amend its bye-laws in conformity with the provisions of this Act, and the rules made there under from time to time.

Provided that every cooperative society shall make amendments to its bye-laws in conformity with the amendments made to this Act or the rules from time to time within ninety days from the date of coming into force of the said amendments.”

(ii) sub-sections (5) and (6) shall be omitted.

7. Omission of section 14A.- section 14A of the Principal Act shall be omitted.

8. Amendment of section 16.- In section 16 of the Principal Act,-

- (i) in sub-section (1) in clause (a), after the words “such cooperative society”, the words, “and is residing in the area of the operation of the society” shall be inserted;
- (ii) in sub section (4), for the words “three months”, the words “two months”, shall be substituted;
- (iii) sub-sections (5), (6) and (7) shall be omitted.

9. Amendment of section 17.- In section 17 of the Principal Act, in sub-section (1), after clause (d), the following shall be inserted, namely:-

- “(e) is not eligible for membership under section 16;
- (f) is a paid employee of the society or of its financing bank; or
- (g) as such member, has failed to transact, such minimum business; or utilize such minimum services or facilities in a year as may be specified in the byelaws for a continuous period of three years”.

10. Amendment of section 18A.- In section 18A of the Principal Act, in clause (a), for sub-clause (iii), the following shall be substituted, namely:-

“(iii) disqualification and cessation”

11. Insertion of new section 19A.- After section 19 of the Principal Act, the following shall be inserted, namely:-

“19A- Access to information.- Every member of a cooperative society shall have access to the books, information and accounts of the cooperative society kept in regular transaction of its business with such member”.

12. Amendment of section 20.- In section 20 of the Principal Act,-

- (i) in sub-section (1),
 - (a) for the words “no member”, the words “no member, no representative or no delegate” shall be substituted;
 - (b) and the proviso thereunder shall be omitted.
- (ii) in sub-section (2), after clause (a-iii) and the proviso thereunder, the following shall be inserted, namely:-
 - “(a-iv) a member, a representative or a delegate who has failed to attend three general meetings out of the last five general meetings;
 - (a-v) a member or a representative who has failed to utilize such minimum services or facilities in a co-operative year as may be specified in the byelaws for three consecutive cooperative years.”
- (iii) in sub-section (2), in clause (b), in sub-clause (iv),-

- (a) for the words “seventy five percent”, the words “fifty percent”, shall be substituted;
- (b) in item (a), for the words “seventy five percent”, the words “fifty percent”, shall be substituted;

13. Amendment of section 21.- In section 21 of the Principal Act, in sub-section (1),

- (a) after the words “every member”, the words and comma, “every representative,” shall be inserted;
- (b) and the following explanation shall be inserted at the end, namely:-

“**Explanation:** For the purposes of section 20 and this section and wherever else it occurs, the word ‘delegate’ means a member of a cooperative society to represent that society in other cooperative societies.”

14. Amendment of section 26.- In section 26 of the Principal Act,-

- (i) in sub-section (2), for the words “the Registrar may amend the bye-laws of the cooperative society”, the words “the general body of a cooperative society may amend its byelaws” shall be substituted;
- (ii) for sub-sections (3) and (4), the following shall be substituted; namely:-
“(3)- The amendments of the bye-laws made under sub-section (2) shall be sent to the Registrar for approval under section 12.”

15. Amendment of section 27.- In section 27 of the Principal Act, in sub-section (1),-

- (i) for the words “thirtieth day of September”, the words “twenty fifth day of September”, shall be substituted;
- (ii) in clause (n), the word “and” at the end shall be omitted;
- (iii) after clause (n), the following shall be inserted, namely:-
 - “(n-1)-review of the use of the services of the society by the members and directors of the society;
 - (n-2)- consideration of the loans and advances made to the directors and their relatives, the defaults, if any, and the action taken for recovery thereof;
 - (n-3)- consideration of the inquiry and inspection reports, if any, and the compliance report of the board on the action taken regarding the rectification of defects and remedying of the irregularities pointed out in the said reports;
 - (n-4)- appointment of auditors;
 - (n-5)- voluntary amalgamation, division, merger, transfer of assets and liabilities;
 - (n-6)- decision on bad debts considered as irrecoverable;
 - (n-7)- review of the remuneration, TA, DA & other allowances paid to the directors including the office-bearers in connection with their duties in that capacity or their attendance at related meetings;
 - (n-8) review of the actual utilization of the reserve and other funds;
 - (n-9) liquidation of the cooperative society; and”
- (iii) the proviso at the end shall be omitted;
- (iv) in sub-section (2), clause (b) shall be omitted;

(v) after sub-section (3), the following shall be inserted, namely:-

"(4) The quorum for a general meeting shall be as specified in the bye-laws, but shall not be less than twenty percent of the members eligible to vote at the meeting;

Provided that the quorum for a representative general meeting shall not be less than sixty percent of the representatives eligible to vote at the meeting;"

16. Insertion of section 27A and 27B.- After section 27 of the Principal Act, the following shall be inserted, namely:-

"27A Participation of members in the management.- Every member of a cooperative society shall participate in the management of the society,-

- (a) by attending three out of the last five annual general meetings;
- (b) by utilizing every year such minimum services or facilities offered by the society as may be specified in the byelaws.

Provided that if a member fails to utilize the minimum services or fails to attend the minimum meetings, he shall lose his right to vote, for a period of three years.

27B. Returns to be filed with the Registrar.- The board of every cooperative society shall file the following returns, within six months of the close of every cooperative year with the Registrar,-

- (a) annual report of activities of the society;
- (b) audited statements of accounts;
- (c) plan for disposal of surplus as approved by the general body;
- (d) list of amendments to the bye laws as approved by the general body of the cooperative society.
- (e) declaration regarding the date of holding of the general body meeting and conduct of elections when due;
- (f) misappropriation or embezzlement of funds, if any, and action taken against the persons responsible for the same including the civil, criminal and disciplinary actions; and
- (g) any other information required by the Registrar in pursuance of any of the provisions of the Act,".

17. Amendment of section 28.- In section 28 of the Principal Act, in sub section (1), the words, "fifty members or", and the words and comma, "whichever is less," shall be omitted.

18. Amendment of section 28A.- In section 28A of the Principal Act,-
in sub-section (2),-

- (a) the words "Government nominees and" shall be omitted;
- (b) for clause (i), the following shall be substituted, namely:-
 - "(i) in case of a primary society and a secondary society whose area of operation extends to,-
 - (a) a part of taluk, eleven members;
 - (b) whole of taluk, thirteen members;

(c) beyond a taluk but not beyond a district, fifteen members:

Provided also that in case of Urban Cooperative Banks having area of operation not beyond a district the maximum number shall not exceed seventeen members.

(d) beyond a district, nineteen members;"

(c) in clause (ii), for the word "excluding", the word "including" shall be substituted;

(d) clause (iii) shall be omitted;

(ii) in sub-section (3),-

(a) for the words 'every primary society', the words 'every cooperative society' shall be substituted;

(b) in clause (ii), for the words "one seat", the words "two seats" shall be substituted;

(c) after clause (ii), for the proviso, the following shall be substituted, namely:-

"(iii) one seats to be filled by election, in favour of the persons belonging to backward classes.

Provided that such reservation shall be made on the board of every cooperative society consisting of individuals as members and having members from such class or category of persons".

(iii) in sub-section (4),-

(a) for the words "five cooperative years", the words "five years from the date of election" shall be substituted.

(b) the explanation after the first proviso shall be omitted.

(c) in the second and third provisos, for the words "five cooperative years", the words "five years from the date of election" shall be substituted.

(iv) after sub-section (4), the following shall be inserted, namely:-

"(4A)- The board of a cooperative society, may co-opt persons having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the cooperative society to be the members of the board.

Provided that the number of such co-opted members shall not exceed two in addition to the maximum number specified in sub-section (2).

Provided further that such co-opted members shall not have a right to vote in any election of the cooperative society in their capacity as such members or to be eligible for being elected as office-bearers of the board.

Provided also that the functional directors not exceeding three, if any, shall also be the members of the board in accordance with the byelaws and such members shall be excluded for the purpose of counting the total number of directors specified in sub-section (2).

Provided also that the professional directors and functional directors shall not form a part of the quorum for the conduct of the board meetings.

(4B)-(1) The State Government may nominate one person as its representative on the board of every assisted society other than the board of a primary agricultural credit cooperative society.

Provided that the person so nominated as a member of a cooperative society shall hold office as such member during the pleasure of the State Government.

(2) Where an officer of Government is nominated under clause (1), such officer may, if unable to be present himself at any meeting of the board, depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be a person nominated as a representative of the State Government for the purpose of such meeting.”

19. Amendment of section 28B.- In section 28B of the Principal Act, for sub-section (1), the following shall be substituted, namely-

“ (1) The election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of office of the members of the outgoing board”.

20. Insertion of section 28C.- After section 28B of the Principal Act, the following shall be inserted, namely:-

“28C- Powers and functions of the board.-(1) The board of a cooperative society may exercise all such powers and perform all such duties as may be necessary or expedient for the purpose of carrying out its functions under the Act,, the rules and the bye-laws.

(2) Without prejudice to the generality of the foregoing powers, such powers and duties shall include the following:-

- (a) to admit members;
- (b) to dispose of applications for allotment of shares;
- (c) to mobilize resources and invest funds;
- (d) to provide services or facilities including sanction of loans and advances to the members and determination of the security to be taken;
- (e) to elect the chairperson and such other office-bearers;
- (f) to acquire or dispose of moveable and immoveable property required for achieving the objectives of the society;
- (g) to determine the cadre strength of the establishment of the society, qualifications, pay scales and other allowances admissible to each employee and other conditions of service of the employees;
- (h) to appoint the chief executive and such other employees as are not required to be appointed by the chief executive of the society subject to the provisions of section 29G;
- (i) to lay down conduct and discipline rules, initiate disciplinary action against the delinquent employees and impose penalties proportionate to the gravity of the charges subject to the provisions of the bye-laws of the society;
- (j) to set up specific goals to be achieved towards the organizational objectives;

- (k) to approve the expenditure necessary for the business of the society subject to the provisions of annual budget;
- (l) to cause the audit of accounts of the society within the specified time limit and obtain the audit report within the said period;
- (m) to consider the audit report, take action for rectification of the defects and remedying the irregularities pointed out, if any, in the audit, cause compliance report and place the reports before the general body;
- (n) to consider the enquiry or inspection reports, if any, take action for rectification of the irregularities pointed out, if any, in the enquiry or inspection, cause compliance report and place the reports before the general body;
- (o) to place the annual report, annual financial statements, annual plan and budget for the approval of the general body;
- (p) to institute, defend or compromise legal proceedings;
- (q) to initiate civil, criminal and disciplinary action, as the case may be, against any person who may have incurred civil or criminal liability by way of misappropriation or causing loss to the society;
- (r) to convene annual general meeting in time and special general meetings whenever necessary and on requisition;
- (s) to frame regulations necessary for the proper and effective functioning of the society;
- (t) to take such other measures or to do such other acts as may be required under this Act, the rules or as may be specified in the byelaws or as may be delegated by the general body.

21. Omission of section 29.- section 29 of the Principal Act, shall be omitted.

22. Amendment of section 29C.- In section 29C of the Principal Act,-

(i) In sub section (1),-

- (a) In clause (c), the words “or any of his near relation” and the proviso at the end shall be omitted;
- (b) In clause (f), in the explanation, the words “and clause (c)” shall be omitted.
- (c) In clause (o), in sub clause (i), for the word ,“member”, the word, “director” shall be substituted.
- (d) after clause (o), the following shall be inserted, namely:-

“(p) he has absented himself for three consecutive meetings of the board of such society , without leave of absence.”

(ii) after sub-section (2), the following shall be inserted, namely:-

“(3) If the board of a cooperative society fails,-

- (a) to assist the cooperative Election Commission for conducting elections as per section 39A and section 29F; or

(b) to call the annual general meeting under section 27 or special general meeting when required under section 28; or

(c) to present the audited accounts and annual report in the annual general meeting, every member of such defaulting board shall be disqualified for being elected or appointed or continued as a member of the board of the society for a period of five years from the date of the order of disqualification”.

(iii) after sub-section (9), the following shall be inserted, namely:-

“(10) No director of a cooperative society shall be eligible for being elected or appointed or continued as a delegate of another society, if he suffers from any disqualification mentioned in sub-section (1). The provisions of sub-section (8) shall, mutatis-mutandis, apply.

(11) No member of a cooperative society shall be eligible for being elected or appointed or continued as a representative, if he suffers from any disqualification mentioned in sub-section (1) other than clauses (m) and (n) thereof. The provisions of sub-section (8) shall, mutatis-mutandis, apply”.

23. Amendment of section 29E.- In section 29E of the Principal Act, the following proviso shall be inserted at the end, namely:-

“Provided that the cooperative election commission shall conduct the election to fill up any vacancy in the office of the director of the board if the remaining term of office of the board is more than half of its original term.

Provided further that the board may fill up a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of office of the board is less than half of its original term”.

24. Amendment of section 29 F.- In section 29F of the Principal Act,-

(i) for sub-sections (4) the following shall be substituted, namely:-

“(4) The term of office of the office-bearers of a cooperative society shall be five years from the date of election and shall be co-terminus with the term of the board.

(5) The Cooperative Election Commission shall conduct elections to the board and also to the office of President or Chair person, Vice President or Vice-Chairperson and such other office-bearers as are required to be elected as per the bye-laws of the cooperative society within fifteen days from the date of constitution or deemed constitution of the board after a general election.

(6) The cooperative election commission shall conduct elections within sixty days from the date it being notified about the occurrence of any casual vacancy in the office of a director or any office bearer of a co-operative society to fill up such casual vacancy”.

(ii) sub sections (5), (6), (7) and (8) shall be omitted.

25. Amendment of section 29-G.- In section 29G of the Principal Act, after sub-section (4B) , the following shall be inserted, namely:-

“(4C) The Chief Executive of a Cooperative Society shall not have a right to vote in the election of the office bearers of the board”.

26. Substitution of section 30.- For section 30 of the Principal Act, the following shall be substituted, namely:-

“30-Supersession or suspension of the board.- (1) Notwithstanding anything contained in any law of the time being in force, no board of a cooperative society shall be superseded or kept under suspension for a period exceeding six months.

Provided that in case of a cooperative society carrying on the business of banking, the provision of this clause, shall have effect as if for the words “six months”, the words “one year” had been substituted.

(2) If in the opinion of the Registrar, the board of a cooperative society-

- (i) persistently makes default or is negligent in the performance of the duties imposed on it by this Act, or the rules or the bye-laws; or
- (ii) commits any act, which is prejudicial to the interest of the society or its members; or
- (iii) where there is a stalemate in the constitution or functioning of the board; or
- (iv) has serious financial irregularities or frauds which have been detected; or
- (v) fails to provide books and records, necessary information and assistance to the election commission as per the calendar set out by the election commission to conduct elections to the board within the stipulated time and as a result or otherwise, the election commission has failed to conduct elections to the board within the stipulated time;

Registrar, may, after giving the board an opportunity to state objections, if any, by order in writing, supersede or suspend the said board and appoint an administrator to manage the affairs of the society for such period not exceeding six months.

Provided that the board of any cooperative society shall not be superseded or kept under suspension where there is no Government share holding or loan or financial assistance or any guarantee by the Government.

Provided further that the supersession or suspension of the board of a cooperative bank shall be done only after consultation with the Reserve Bank of India / National Bank as the case may be and the provisions of Banking Regulation Act,, 1949 shall also apply.

(3) The administrator so appointed shall, subject to the control of the Registrar and such instructions as he may give from time to time, exercise all or any of the functions of the board or of any office- bearer of the co-operative society and take such action as he may consider necessary in the interest of the society.

(4) In case of supersession of a board, the administrator shall, before the expiry of his term of office, arrange for the conduct of elections and the constitution of a new board in accordance with this Act,, the rules and the bye-laws of the co-operative society and hand over management to the elected board.

(5) In case of suspension of a board, the Registrar shall reinstate the said board and the administrator shall, on the expiry of his term of office, handover the management to the said board

and the period of suspension shall be reckoned while computing the original term of office of the board.

(6) Notwithstanding anything contained in this Act,, the Registrar shall, in the case of a cooperative bank, if so required in writing by the Reserve Bank of India, in public interest or for preventing the affairs of the cooperative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the cooperative bank, by order in writing, remove the board of that cooperative bank and appoint an administrator to manage the affairs of the cooperative bank for such period not exceeding one year as may be specified by the Reserve Bank of India.

(7) Any officer or employee of the Government or a Cooperative organization may be appointed as administrator of a cooperative society-

- (i) if he is appointed on full time basis, his pay and other allowances shall be borne by the cooperative society. The service rules applicable to him in the department or organization shall continue to govern his service as administrator of the society;
- (ii) if he is appointed as administrator in addition to his regular post, he shall be paid remuneration at the rate of ten percent of his basic pay out of the funds of the cooperative society. The service rules applicable to him in the department or organization shall continue to govern his service as administrator of the society;

27. Amendment of section 34.- In section 34 of the Principal Act, in sub-section (1), the following provisos shall be inserted, namely:-

“Provided that the employee shall obtain prior concurrence in writing of the employer agreeing to deduct from his salary or wages such an amount as specified in such agreement.

Provided further that the liability of the employer shall be limited to the extent of deduction of an amount which if included makes the total of all the deductions from the salary not to exceed fifty percent of the salary of the employee.

Provided also that the board of the cooperative society shall determine the amount of loan and the number of instalments to be granted to the employee in such a manner that the total of all deductions including the deduction on account of the loan instalment alongwith interest thereon shall not exceed fifty percent of the salary of the employee”.

28. Substitution of section 39A.- For section 39A of the Principal Act, the following shall be substituted, namely:-

“39A- Conduct of elections.- (1) Every general election of the members of the board and election of the office-bearers of a cooperative society including any casual vacancy to the extent applicable shall be held subject to the superintendence, direction and control of the Cooperative Election Commission.

(2) The general elections of the members of the boards of the cooperative societies shall be held in four stages as under,-

- (a) the elections in respect of primary cooperative societies shall be held in the first stage;

- (b) in the second stage, the electoral process for holding elections to the secondary societies shall commence fifteen days after the completion of the elections of the primary societies;
- (c) in the third stage, the electoral process for holding election to the federal societies shall commence thirty days after the completion of the elections of the secondary societies; and
- (d) in the fourth stage, the electoral process for holding election to the apex societies shall commence thirty days after the completion of the elections of the federal societies.

Provided that the cooperative election commission may start the preparatory work for the preparation of the electoral rolls for and the conduct of the elections during the last six months prior to the expiry of the term of office of the board of a cooperative society.

(3) Notwithstanding anything contained in this Act, the rules or the bye-laws of any cooperative society, the elections to the boards and consequent election of the office-bearers which are due during March and April 2013 shall be held;

- (i) before the thirtieth day of September 2013 in respect of the primary cooperative societies;
- (ii) before the thirty first day of October 2013, in respect of the secondary cooperative societies;
- (iii) before the thirtieth day of November 2013 in respect of the federal societies;
- (iv) before the thirty first day of December 2013 in respect of the apex cooperative societies;

Provided that the incumbent boards of all such cooperative societies shall continue to be in their respective offices till the conduct of the elections as above.

39AA Co-operative Election Commission.-(1) The State Government shall, by notification in the Official Gazette, constitute a Cooperative Election Commission consisting of a cooperative election commissioner and a secretary.

(2) The cooperative election commission shall be vested with the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the cooperative societies in the State.

(3) The Governor shall appoint a person who is or has been an officer of the rank of Principal Secretary or Secretary to the State Government to be cooperative election commissioner on the recommendation of the Chief Minister and such cooperative election commissioner shall hold office for a term of five years.

(4) The State Government shall appoint a person who is or has been an officer of the rank of Additional Registrar of Cooperative societies to be the Secretary of the Cooperative Election Commission.

(5) The conditions of service including the salary and allowances of the cooperative election commissioner and the secretary shall be such as may be prescribed.

(6) Subject to the provisions of sub-section(8), the Co-operative Election Commissioner shall be removed from his office only by an order of the Governor on the ground of proved misbehavior or incapacity after an enquiry ordered by the Governor and conducted by a Judge of the High Court, who has on inquiry, reported that the Election Commissioner ought to be removed on such ground.

(7) The Governor may suspend from office, and if deemed necessary prohibit also from attending the office during inquiry, the election commissioner in respect of whom an enquiry has been ordered under sub-section (6) until the Governor has passed orders on receipt of the report of the High Court Judge.

(8) Notwithstanding anything contained in sub-section(6), the Governor may by order remove from office the cooperative election commissioner if the cooperative election commissioner,-

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor involves moral turpitude; or
- (c) has engaged during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the election commissioner.

(9) If the Cooperative election commissioner any way, concerned or interested in any contract or agreement made by or on behalf of the Government of Karnataka or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section(6) be deemed to be guilty of misbehavior.

(10) The cooperative election commission shall in consultation with the State Government determine the number of officers and other employees required for the discharge of the functions conferred on it under sub-section(2) and require the State Government to provide the services of such officers and employees.

(11) The State Government shall, when so requested by the cooperative election commission, make available to the cooperative election commission such staff as may be necessary for the discharge of the functions conferred on the cooperative election commission under sub-section(2).

(12) The salary, allowances, terms and conditions of services of the officers and the employees of the cooperative election commission shall be such as may be prescribed.

(13) Subject to the provisions of this Act, procedure and guidelines for the conduct of election shall be such as may be prescribed.

(14) The cost of preparation of electoral rolls for, and the conduct of the elections shall be met in such manner as may be prescribed.

(15) The board of every cooperative society shall,-

- (a) inform the cooperative election commission about the expiry of its term of office at least six months before the date of expiry of such term;
- (b) furnish such books, records and information as the commission may require as per the calendar prescribed by the Cooperative Election Commission; and
- (c) provide all necessary help, assistance and cooperation for the smooth preparation of electoral rolls for and the conduct of elections.”

29. Omission of section 53A.- section 53A of the Principal Act, shall be omitted.

30. Amendment of section 56.- In section 56 of the Principal Act, in sub-section (2), for the second proviso, the following shall be substituted, namely:-

“Provided further that no director shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the board or committees or sub-committees or for performing any other functions as a director at a rate higher than the maximum rate specified in the byelaws for the purpose, having regard to the financial position and profitability of the society”.

31. Insertion of new section 57A.- After section 57 of the Principal Act,, the following shall be inserted, namely:-

“57A- Cooperative Education and Training.-(1) The cooperative education fund shall be utilized for the purpose of promotion of the cooperative movement in the State and for providing education to the members, directors and cooperators of the cooperative societies and the general public and training to the employees of the cooperative societies.

(2) Every co-operative society shall pay its contribution to the Karnataka State Cooperative Federation within thirty days from the date of its annual general meeting.

(3) All contributions made by the cooperative societies towards co-operative education fund, grants received from the Government of India or the State Government and donations, if any, made by any person shall be credited to the cooperative education fund.

(4) The cooperative education fund shall be maintained and administered by the Karnataka State Cooperative Federation Limited for such programmes and in such manner as may be prescribed.

(5) No expenditure out of the cooperative education fund shall be incurred without the approval of an advisory committee constituted for the purpose as prescribed”.

32. Amendment of section 58.- In section 58 of the Principal Act,-

(i) in clause (e),-

(a) the words “or financial institution” shall be omitted.

(b) for the word “Registrar”, the words, “general body of that society till the date of the next annual general body meeting”, shall be substituted.

(ii) the first proviso shall be omitted.

33. Amendment of section 59.- In section 59 of the Principal Act, for sub-section (2), the following shall be substituted, namely:-

“(2) Notwithstanding anything contained in sub-section (1), the general body of a cooperative society shall have power to permit the society to borrow from a credit agency subject to such conditions as may be stipulated in the resolution of the general body.

Provided that such resolution is valid till the date of the next annual general meeting”.

34. Substitution of section 63.- For section 63, the following shall be substituted, namely:-

“63 Audit.- (1) Every Cooperative society shall get its accounts audited at least once in a year before the first of September following the close of the cooperative year by an auditor or an auditing firm appointed by the general body of the cooperative society from a panel of auditors or auditing firms approved by the Director of cooperative audit;

Provided that the Director of co-operative audit shall be the authority competent to prepare and maintain a list of auditors and auditing firms who satisfy the prescribed qualification and experience for undertaking the audit of accounts of co-operative societies in the state.

Provided further that the Director of cooperative audit shall communicate a panel of auditors and auditing firms, not exceeding ten, to every cooperative society within thirty days from the close of the co-operative year.

(2) The general body of every cooperative society shall at its general meeting appoint an auditor or an auditing firm to audit the accounts of the society for the cooperative year in which the general meeting is held.

(3) The manner of preparation of the list of auditors and auditing firms by the Director of co-operative audit and the procedure for giving the panel to each co-operative society shall be such as may be prescribed.

(4) The audit under sub-section (1) of this section or under section 98U or section 98V shall include an examination of overdue debts, if any, the physical verification and valuation of the assets and liabilities, verification of the cash balance and securities, certification of the profits or losses, compliance with the transparency law and other laws applicable to the cooperative societies including the instructions and directives of NABARD or Reserve Bank of India and an examination of the working and the other prescribed particulars of the society.

(5) The auditor or auditing firm shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to the society or in the custody of any member of the board or the office-bearer or the chief executive or any other employee of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties to produce the same at the registered office of the society or any branch thereof or at any public office at the headquarters of the society.

(6) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Auditor or Auditing firms approved by the Director of Cooperative Audit may require.

(7) The board of every cooperative society shall ensure that the annual financial statements like the receipts and payments or income and expenditure, profit and loss and the balance sheet along with such schedules and other statements as may be prescribed as at the end of a cooperative year are prepared and presented for audit before the auditor or auditing firm within thirty days of the closure of that cooperative year.

(8) The Auditor or Auditing firm shall conduct and complete the audit of accounts as provided for in this Act, or the rules and send copies of the audit report and communicate the results of audit to the cooperative society, the Registrar, the Director of co-operative audit and to the financing bank or credit agency, and if the society is affiliated to any other cooperative society, to such cooperative society, as early as possible but within the first day of September every year.

(9) The auditor or auditing firm shall have right to receive all notices and every communication relating to the general meeting of a cooperative society and, at the cost of the cooperative society, shall be entitled to attend such meeting and to be heard at the general body meeting, in respect of all or any part of the business with which he is concerned as auditor or auditing firm.

(10) If the result of the audit held under sub-section(1) discloses any defects in the working of the society, the board shall take steps to rectify the defects and remedy the irregularities pointed out in the audit report and place the audit report along with the action taken report before the general meeting to be held before the twenty-fifth day of the September every year and explain therein the said defects or the irregularities. The board shall continue to take steps for rectification of all the defects and remedying of all the irregularities in the audit report and appraise the general meetings every year till all the defects are rectified and the irregularities are remedied. The board shall send report of action taken to the Registrar and Director of Co-operative Audit within thirty days from the date of the general meeting.

(11) The Director of Co-operative Audit shall submit the audit reports of an Apex cooperative society to the State Government annually for being laid before the legislature in the manner prescribed.

(12) If it appears to the general body of a co-operative society that there is a prima-facie case of fraud or misappropriation or embezzlement of funds not detected or properly examined by the auditor during the regular audit or misclassification of accounts, the general body may resolve to provide for a re-audit of any account of the society with a view to truly reflect the financial position of the society and the provisions of the Act, and the rules applicable to the audit shall apply to such re-audit;

(13) If it appears to the State Government on an application by a cooperative society or otherwise that it is necessary or expedient to re-audit the accounts of a society, the State Government may, by an order provide for such re-audit and the provisions of the Act, and the rules applicable to the audit shall also apply to such re-audit.

Provided that such re-audit shall be ordered only when there is a prima-facie case of fraud or misappropriation or embezzlement of funds not detected or properly examined by the auditor or

auditing firms during regular audit or misclassification of accounts or for any other valid reasons with a view to truly reflect the financial position of the society.

- (14) Without prejudice to the provisions of sub- sections (5) and (6), the auditor shall inquire;
- (a) Whether loans and advances made by the co-operative society on the basis of security have been properly secured and whether terms on which they have been made are not prejudicial to the interests of the co-operative society or its members;
 - (b) Whether transactions of the co-operative society which are represented merely by book entries are not prejudicial to the interests of the co-operative society;
 - (c) Whether personal expenses have been charged to revenue account;
 - (d) Where it is stated in the books and papers of the co-operative society that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading; and
 - (e) Whether any special issue or subject matter referred to for enquiry by the Reserve Bank or National Bank has been duly enquired into and report thereof is submitted to the Reserve Bank or National Bank as the case may be.

(15) The auditor shall make a report to the cooperative society on the accounts examined by him and on every balance sheet and profit and loss account and on every other document required to be part of or annexed to the balance sheet or profit and loss account. The report shall state whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by this Act, in the manner so required and give a true and fair view,-

- (a) in the case of the balance sheet, of the state of the cooperative society's affairs as at the end of the year; and
- (b) in the case of the profit and loss account, of the profit or loss for the year.

(16) The auditor's report shall also,-

- (a) state whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
- (b) state whether in his opinion, proper books of accounts have been kept by the co-operative society so far as appears from his examination of those books and proper returns adequate for the purpose of his audit have been received from branches or offices of the co-operative society not visited by him;
- (c) state whether the report on the accounts of any branch office audited by a person other than the co-operative society's auditor has been forwarded to him and how he has dealt with the same in preparing the auditor's report;
- (d) state whether the co-operative society's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;

(17) The audit report shall have,--

- (a) all particulars of the defects or the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor/auditing firm shall investigate and report the modus operandi, the entrustment, amount involved, and fix the responsibility for such misappropriation or embezzlement of funds or fraud, on the members of the board or the employees of the society or any other person as the case may be with all necessary evidence.
- (b) accounting irregularities and their implications on the financial statements to be indicated in detail in the report with the corresponding effects on the profit and loss.
- (c) the functioning of the general body, board and sub-committees of the Co-operative Society to be checked and any irregularities or violations observed reported duly fixing the responsibilities for such irregularities or violations.
- (d) all schedules and other statements as may be prescribed.

(18) Where any of the matters referred to in clauses (a) and (b) of sub-section (14) or in clauses (a) and (b) of sub section (15) or clause (a) to (d) of sub-section (16) is answered in the negative or with a qualifying observation, the auditor's report shall state the reason for the answer.

(19) The remuneration of the auditor or auditing firm of a cooperative society shall be borne by the society and shall be at such rates as may be fixed by general body of the society.

(20) The Director of Cooperative Audit shall maintain a list of cooperative societies districtwise, the list of working societies, the list of societies whose accounts are audited, the list of societies whose accounts are not audited within the prescribed time and the reasons therefor. He shall co-ordinate with the cooperative societies and the auditors or auditing firms and ensure the completion of audit of accounts of all the cooperative societies in time every year.

Explanation: For the purpose of this section,- (i) 'Auditor' means an auditor or an officer of the Department of Cooperative Audit who has passed, in addition to the graduation or post graduation degree, Higher Diploma in Cooperative Management / Diploma in Cooperative Audit / General Diploma in Cooperative management and who has completed the period of probation successfully and who has a working knowledge of the kannada language; or a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 who shall have a fair knowledge of the functioning of the cooperative societies and shall have an experience of at least three years in auditing of which the auditor would like to be included in the panel and chartered accountants shall have working knowledge of the Kannada language.

(ii) 'Auditing firm' means a firm of more than one Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 who or which shall have a fair knowledge of the functioning of the cooperative societies and shall have an experience of at least three years in auditing of which the auditing firm would like to be included in the panel and chartered accountants shall have working knowledge of the Kannada language.

35. Amendment of section 64.- In section 64 of the Principal Act,-

- (i) after sub-section (2A), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, shall have power to extend the period for holding the enquiry beyond eighteen months if it is satisfied that, there are genuine grounds for the extension.”

(ii) in sub-section (3), for clause (b), the following shall be substituted; namely:-

“(b) the inquiry officer may also summon any officer of a financing bank or a credit agency as the case may be or any person having any kind of business relationship with the society or any person who is connected with the functioning of and who has knowledge about the affairs of the society to produce any records or documents, if any, related to the transactions with and working of the society and furnish such information and the explanations, at the registered office or branch of the society or at any public office at the headquarters of the society, as the inquiry officer may require for the purpose of the inquiry.”

(iii) after sub-section (4), the following shall be inserted, namely:-

“(4A) On receipt of the inquiry report and the result of the inquiry from the Registrar, it shall be the responsibility of the board to initiate immediate necessary action for rectification of deficits, if any, therein and place the report before the annual general meeting or a special general meeting convened for the purpose at the earliest.

Provided that the general body of the cooperative society shall not be competent to pass a resolution negating the findings of the inquiry”.

(iv) in sub-section (5), for the words “three months”, the words “forty five days” shall be substituted”.

36. Amendment of section 65.- In section 65 Principal Act,-

(i) after sub-section (2), the following shall be inserted, namely:-

“(2A) On receipt of the inspection report and the result of the inspection from the Registrar, it shall be the responsibility of the board to initiate necessary action for rectification of defects, if any, therein and place the report before the annual general meeting or a special general meeting convened for the purpose at the earliest.

Provided that the general body of the cooperative society shall not be competent to pass a resolution negating the findings of the inspection”.

(ii) in sub-section (3),

“(a) for the word “inquiry” wherever it occurs, the word “inspection” shall be substituted.

(b) for the words “three months”, the words “forty five days” shall be substituted.

37. Amendment of section 68.- In section 68,-

(i) in sub-section (1),

(a) for the words ‘remedy the defects”, the words “rectify the defects and remedy the irregularities” shall be substituted.

(b) the words “the audit under section 63 or” shall be omitted.

- (ii) in sub-section(3), for the words “who shall take action for incorporation of ”, the words “who shall inform the society auditor or auditing firm auditing the accounts of the society for incorporation” shall be substituted.

38. Amendment of section 69.- In section 69 of the Principal Act, after sub-section (4), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, may extend the period beyond eighteen months if it is satisfied that, there are genuine/valid grounds for such extension”.

39. Amendment of section 70.- In section 70 of the Principal Act,-

- (i) in sub-section (1) after the words “cooperative society”, the words “other than a dispute pertaining to the election of the board and election of the office-bearers” shall be inserted;

- (ii) in sub-section (2) clause (c) shall be omitted;

- (iii) after sub-section (3) the following shall be inserted, namely:-

“(4) All disputes related to the election of the members of the board and the election of President, Vice-President, Chairman, Vice-Chairman or any other office-bearer shall be filed in the jurisdictional Civil Court.

(5) All disputes pending with the Registrar as on the date of the constitution of cooperative election commission shall be disposed of by the Registrar as if this amendment had not been made”.

40. Amendment of section 71.- In section 71 of the Principal Act, after sub-section (5), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, may extend the period beyond eighteen months if it is satisfied that, there are genuine/valid grounds for such extension”.

41. Amendment of section 72.- In section 72 of the Principal Act,-

- (i) in sub-section (1),

- (a) for the words “an inquiry”, the words, “an audit has been conducted under section 63 or an inquiry” shall be substituted.

- (b) for the words “he may issue an order”, the words “he may, after giving the society an opportunity of making its representation, issue an order” shall be substituted.

- (ii) in sub-section (2), in clause (b), for the words, “or has ceased to work”, the words “within a period of six months of the date of its registration or has ceased to function for six months” shall be substituted.

- (iii) after sub-section (4), the following shall be inserted, namely:-

“(5) Notwithstanding anything in this section, the Registrar shall make an order for the winding up of a cooperative society, if the general body of the society, by a resolution passed by two

thirds majority of the members present and voting in a general meeting decides for the winding up of that society”.

42. Amendment of Section 98B.- In section 98B of the Principal Act,, after the words, “over riding effect”, the words, “except the provisions of sections 12, 16, 17, 19A, 20, 27, 27A, 27B, 28, 28A, 29C, 29E, 29F, 29G, 30, 31, 39A, 39AA, 56, 57A, 63, 64, 65, 70, 72, 108 & 109” shall be inserted.

43. Omission of section 98 P.- section 98P of the Principal Act, shall be omitted.

44. Omission of section 98T.- section 98T of the Principal Act, shall be omitted.

45. Amendment of section 105A.- In section 105A of the Principal Act,,(i) in sub-section (1), for the word “Registrar”, the words “general body”, shall be substituted.

(ii) for sub-section (3), the following shall be substituted; namely:-

“(3)The general body of the cooperative society shall, after giving a reasonable opportunity to the person concerned to make his representation, if any, in writing and after considering the reasons for refusal of membership by the board, direct either that the person shall be admitted as a member by the cooperative society or that he need not be admitted by the cooperative society, and in the former case, the board shall give effect to the decision within ten days of the resolution of the general body”.

(iii) sub-section (4) and (5) shall be omitted.

46. Amendment of section 106.- In section 106 of the Principal Act,, after sub-section (5), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, may extend the period beyond eighteen months if it is satisfied that, there are genuine/valid grounds for such extension.”

47. Amendment of section 108.- In section 108 of the Principal Act, for the words, “an appeal has been made to the State Government under section 106”, the words “an appeal has been made to the State Government or other authorities under section 106” shall be substituted.

48. Amendment of section 109.- In section 109 of the Principal Act, after sub-section(16), the following shall be inserted, namely:-

“(17) The members of the board who fails and the chief executive who fail to submit the accounts and the information required by the auditor as per section 63 within the stipulated time shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to five thousand rupees or with both;

(18) Every member of the board who fails and the chief executive who fails to get its accounts for the previous year audited as per section 63 within the stipulated time and present the same before the annual general meeting shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to ten thousand rupees or with both;

(19) Every member of the board who and the chief executive who fail to file annual returns with the Registrar as per section 27B shall be punishable with imprisonment for a

term which may extend to six months or with fine which may extend to five thousand rupees or with both;

(20) Every member of the board which fails and the chief executive who fails to provide necessary books, records and information within time and assist the cooperative election commission for the conduct of elections within the time stipulated under section 39AA shall be punishable with imprisonment for a term of six months or with fine of ten thousand rupees or with both;

(21) Any person who, before, during or after the election of the members of the board or office-bearers, adopts any corrupt practice under section 39C or commits any electoral offences under section 39K shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both."

49. Amendment of section 113.- In section 113 of the Principal Act, In sub-section (2) in the proviso, the words "with the previous permission of the Registrar" shall be omitted.

50. Amendment of section 117.- In section 117 of the Principal Act,, sub-section (2) shall be omitted.

51. Amendment of section 118.- In section 118 of the Principal Act, in sub-sections (1), for clauses (b) and (c), the following shall be substituted, namely:-

"(b) the removal of a member or the removal and disqualification of a director or the removal of a board;

(c) any surcharge application required under section 69 or any dispute required under section 70 to be referred to the Registrar or the recovery of moneys under section 100 or the execution of any award or order referred to the Registrar for execution under section 101;"

52. Amendment of section 124.- In section 124 of the principal Act, in the proviso, for the words "issued by certificate of posting", the following words shall be substituted, namely :-

"published on the notice boards of the society at its registered office and its branches, and,-

(a) sent by bulk posting at places wherever the facility is available; or

(b) sent by E-mail and S.M.S.; or

(c) sent by ordinary post and published in,-

(i) one Kannada news paper having wider circulation at places where the co-operative societies whose area of operation is less than a district, are situated or

(ii) one Kannada newspaper and one English newspaper having wider circulation at places where the co-operative societies, whose area of operation extends to a district and above and to the whole of the state, are situated;"

53. Amendment of section 129.- In section 129 of the Principal Act, in sub-section (2),-

(i) after clause (e), the following shall be inserted, namely:-

"(e-1) right of a member to get information regarding his transaction of business with the society.

(ii) for clause (g), the following shall be substituted; namely:-

- “(g) The conditions of service of cooperative election commissioner”;
- (iii) for the clause (l), the following shall be substituted; namely:-
“(l) the procedure for conduct of general meetings including representative general meetings and board meetings and requisitioning of a general meeting and board meeting”;
- (iv) after clause(l), the following shall be inserted, namely:-
“(l-1) the procedure for the consideration of no confidence against any director”.
- (v) in clause (m), the words “the members of the committee and” shall be omitted.
- (vi) in clause (o), for the word “qualification”, the words “qualification, experience and procedure” shall be substituted.
- (vii) after clause (t) the following shall be inserted, namely:-
“(t-1) procedure for the maintenance and administration of education fund by the Karnataka State Cooperative Federation;
“(t-2)- the cost of preparation of the electoral rolls for, and the conduct of, the elections by the election commission”.
- (viii) in clause (y), for the word “Societies” and the remuneration payable to the auditor or auditing firm;” shall be substituted.
- (ix) for clause (ii), the following shall be substituted; namely:-
“(ii) Procedure for empanelment of the auditors and auditing firms to be sent to the cooperative societies”.

54. Power to remove difficulties.-(1) If any difficulty arises in giving effect to the amendments made by this Act, the State Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of the Principal Act, and the Constitution (ninety seventh amendment) Act., 2011 as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act,-

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

By Order and in the name of the Governor of Karnataka,

G.K. BOREGOWDA

Secretary to Government,

Department of Parliamentary Affairs and Legislation